

# Leominster Zoning Ordinance Revised Draft



November 2009

Adopted by the City Council on \_\_\_\_\_, 2009

With Amendments through \_\_\_\_\_, 2009

With Map Appendix through \_\_\_\_\_, 2009

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## ***ARTICLE I: GENERAL REGULATIONS***

### ***Section 22-1. Zoning Ordinance***

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the City of Leominster, Massachusetts,” hereafter referred to as “the Zoning Ordinance.”

### ***Section 22-2. Authority***

The Zoning Ordinance is adopted pursuant to the authority granted by Chapter 40A of the General Laws of the Commonwealth of Massachusetts as amended through December 22, 1977, hereafter called “The Zoning Act.” Where the Zoning Act is amended from time to time after the effective date of this Zoning Ordinance and where such amendments are mandatory, such amendments shall supersede any conflicting regulations of the Zoning Ordinance which are based on the Zoning Act in existence at the effective date of the Zoning Ordinance.

### ***Section 22-3. Purpose***

The purpose of the Zoning Ordinance is to promote the health, safety, convenience, morals and welfare of the present and future inhabitants of the City of Leominster; to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, open space and other public requirements; to encourage housing for persons of all income levels; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the City; and to preserve and increase the City’s amenities and to encourage an orderly expansion of the tax base by utilization, development, and redevelopment of land.

To achieve this end, the Zoning Ordinance seeks to permit, prohibit, regulate, or restrict:

1. Uses of land, including wetlands and land deemed subject to seasonal or periodic flooding.



2. Size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of Sections 29 - 33 inclusive of Chapter 93 and to Chapter 93D of the Massachusetts General Laws.
3. Uses of bodies of water, including water courses.
4. Noxious uses.
5. Areas and dimensions of land and bodies of water to be occupied or unoccupied by uses, structures, courts, yards, and open spaces.
6. Density of population and intensity of use.
7. Accessory facilities and uses, such as vehicle parking and loading, landscaping and open space.

**NOTE: THIS DEFINITION SECTION IS NEW AND REPLACES WHAT WAS ORIGINALLY IN THE ORDINANCE. NEW DEFINITIONS ARE HIGHLIGHTED IN YELLOW.**

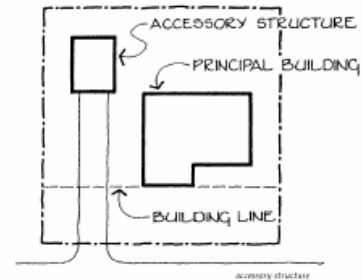
#### *Section 22-4. Definitions*

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Abandonment.** To stop the use of property intentionally. When a pre-existing non-conforming use has ceased and the property has been vacant for two years or more, abandonment of use shall be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use. Any other building that has been vacant and has been in a deteriorated and unusable condition for more than twelve (12) months shall be deemed abandoned.

**Accessory building.** A subordinate building located on the same lot with the main building or use, the use of which is customarily incidental to that of the main building or to the use of the land.

**Accessory use.** A use customarily incidental to that of the main building or to the use of the land.



**Adult Bookstore.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, video and other matter which are characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Cabaret.** A nightclub, bar, restaurant, or similar establishment which during a substantial portion of the total presentation time features live performances which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Dance Club.** An establishment that, as its principal form of entertainment, permits a person or persons to perform in a state of nudity as defined in MGL Chapter 272 Section 31.

**Adult Motion Picture Theater.** An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Paraphernalia Store.** An establishment having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual intercourse, sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Theater.** A theater, concert hall, auditorium or similar establishment either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which are distinguished or characterized by their emphasis depicting, describing, or relating, to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Video Store.** An establishment having, as a substantial or significant portion of its stock in-trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31.

**Adult Entertainment Use.** The above-defined "Adult" uses may collectively be referred to as "Adult Entertainment Uses". Further, if 10% or more of an establishment's stock and/or trade is devoted to matters which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL Chapter 272 Section 31., then the establishment is deemed to be an adult entertainment use and is governed by the regulations as outlined in this Ordinance.

**Affordable Housing.** Housing, the use and price or rent of which is restricted for sale, lease, or rental to households within specific income ranges as defined by **Article XVI** of this Ordinance.

- (1) Relationship to the affordable housing inventory: All Affordable Units created to fulfill the requirements of this Ordinance must qualify as "Local Initiative Units" in compliance with the provisions of the Local Initiative Program (LIP) regulations, 760 CMR 45.00 and Local Initiative Program Guidelines, as promulgated and amended by the Commonwealth of Massachusetts Department of Housing and Community Development or other criteria as may be designated in the inclusionary zoning guidelines as approved by the City Council.
- (2) Sales Prices: Initial purchase prices and resale prices of Affordable Housing Units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for annual debt service on a mortgage (at 30 year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a 5 percent down payment, including any required entrance deposit.
- (3) Rental Costs: Payment of housing and related costs for Affordable Rental Units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for monthly rent and utilities (excluding cable and telephone service). Affordable Rents shall not exceed the current Fair Market Rents set by the U. S. Department of Housing and Urban Development.

**Affordable Housing Definitions:** **(see Article XVI)**

- a. **Affordable unit.** A dwelling unit available at a cost of no more than 30% of gross household income of households at or below 80% of the Worcester County median income as reported by the U.S. Department of Housing and Urban Development (HUD), including units listed under MGL Chapter 40B Section 20-24 and the Commonwealth's Local Initiative Program.
- b. **Local housing fund.** An account established by: (a) the City for the specific purpose of creating affordable housing, including use by the Leominster Housing Authority for the purchase of land or units, or the development of new or rehabilitation of existing dwelling units for affordable housing occupants; or (b) a housing trust or community development corporation designated by the City and created under the laws of the Commonwealth of Massachusetts.
- c. **Qualified affordable housing unit purchaser or tenant.** An individual or family with household incomes that do not exceed 80% of the median income, with adjustments for household size, as reported by HUD and the Commonwealth's Local Initiative Program.

**Agriculture.** The production, keeping or maintenance, for sale or lease, of plants and animals for commercial purposes, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock including beef cattle, swine, horses, mules, ponies, or goats or any mutations of hybrids hereof, including the breeding and grazing of any or all such animals, bees, and apiary products, for animals, trees and forest products; fruits of all kinds, including grapes, nuts, and berries, vegetables, floral, nursery, ornamental, and greenhouse products, or lands devoted to a soil conservation or forestry management program.

**Alteration.** Any construction, reconstruction or other similar action resulting in a change in the structural parts, height, number of stories, exits, size, use, or location of a building or other structure.

**Animal shelter.** A facility owned, operated and maintained by an organization used for the purpose of temporary boarding and caring for an animal while finding it a permanent adoptive home.

**Apartment/multi-family dwelling.** Any structure regardless of tenure designed or intended or used as the home or residence of three or more families, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

**Aquifer.** A saturated geologic unit that is permeable enough to yield economic quantities of water to wells.

**Assisted living facility.** A combination of housing, support services, and health care designed to respond to the needs of those who require help in activities of daily living. Such facilities may include common dining and recreation areas, and may offer transportation services. Accessory uses may include beauty salons, convenience stores, pharmacies, and similar establishments.

**Automobile body shop.** A building or structure that provides collision repair, painting, and replacement of damaged parts.

**Automobile service station.** A building or structure used for the servicing and repair of motor vehicles including transmission repair; engine overhaul; minor repairs such as engine tune-ups; dispensing of gas, oil, and other similar products; and the installation and repair of automotive accessories such as radios, burglar alarms, and other electronic devices.

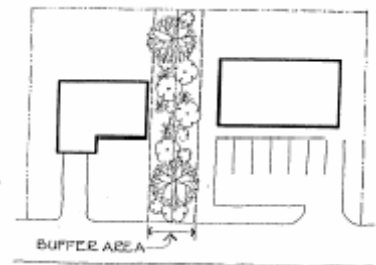
**Awning.** A roof like covering, as of canvas, stretched upon a frame that is affixed to a building and used above or before any place as a shelter from rain or sun.

**Basement.** A portion of a building, partly below grade, which has more than one-half of its height, measuring from finished floor to finished ceiling, above the average finished grade of the ground adjoining the building. A basement is not considered a story unless its ceiling is four feet, six inches (4'6") or more above the average finished grade.

**Bed and breakfast.** An owner-occupied single-family dwelling which may rent rooming units for transient occupancy, (without individual kitchen facilities and with an individual or shared bath/toilet facility, separate from those required for the single-family dwelling), which share a common entrance with the single-family dwelling. The use of that portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a single-family residence and shall not change the character thereof.

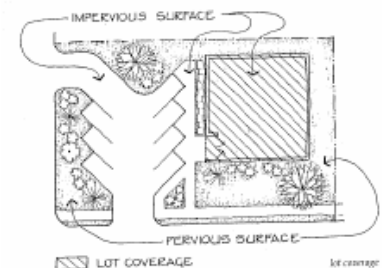
**Big box retail.** A large scale retail use that occupies no less than 50,000 square feet of gross floor area, typically generates high traffic volumes, and has a regional sales market. Examples include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

**Buffer.** A landscaped area sufficient in depth and screening to visually separate one land use or lot from another.



**Building.** A combination of any materials, whether portable or fixed, with or without a roof, enclosed within exterior walls or fire walls, built to form a structure for the shelter of persons, animals, or property.

**Building area.** The aggregate of the maximum horizontal cross sectional area of all buildings on a lot exclusive of cornices, eaves, gutters, chimneys, steps, unenclosed porches, bay windows, balconies, and terraces.



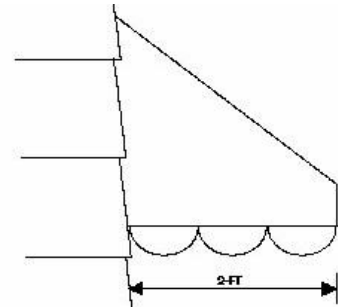
**Building coverage.** The building area expressed as a percent of the total lot area.

**Building, detached.** A building which is not attached to any other dwelling by any means and is surrounded by open space or yards on all sides.

**Business services.** An establishment intended for the conduct or service or administration by a commercial enterprise, on a fee or contract basis including, but not limited to actuarial, advertising, janitorial, office equipment rental, telecommunications, printing and photocopying, and other such services.

**Canopy.** Any overhanging shelter or shade.

**Cellar.** A portion of a building, partly or entirely below grade, which has more than one-half of its height, measured from finished floor to finished ceiling, below the average finished grade of the ground adjoining the building. A cellar is not deemed a story.



**Certificate of occupancy.** The certificate issued by the Director of Inspections which permits the use of a building in accordance with approved plans and in compliance with the Zoning Ordinance.

**Commercial vehicle.** Any vehicle which is included in the definition of a motor vehicle given in MGL Chapter 10 including but not limited to passenger car or van on which is permanently affixed any writing to designate the business or professional use or affiliation of said car or van, or any truck or other vehicle which would be classified other than a passenger vehicle for purposes of registration in the Commonwealth of Massachusetts or an auto home or bus, but excluding a passenger car not marked for business use.

**Condominium.** A multi-unit structure where each separate unit is under separate ownership.

**Continuing Care Retirement Community.** A residential care institution intended for occupancy by persons of advanced age (greater than 55 years) or limited ability for self care, which may provide food, transportation, recreation, or other services to the residents thereof. The term shall include apartments and similar multiple residence living arrangements when operated as an assisted living facility as defined herein, but shall not include group homes for the handicapped, adult care homes, nursing homes, hospitals, or hotels.

**Contractor's yard.** Any land or buildings used primarily for the storage of equipment (including equipment rental), vehicles, machinery, or building materials used by the owner or occupant of the premises in the conduct of building trades.

**Convenience store.** A retail store generally containing less than 2,500 square feet of gross floor area that is designed and stocked to sell a limited supply of food, beverages, and other household supplies to customers.

**Conversions.** External and internal changes to a structure that increase the number of dwelling units in the structure, not to exceed the number of units per structure allowed in the district.

**Day care, adult.** A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day.

**Day care center.** Any facility operated on a regular basis whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, or pre-school, or known under any other name, which receives children not of common parentage under seven years of age, or under sixteen years of age if such children have special needs, for nonresidential custody and care during part or all of the day separate from their parents. Day care center shall not include: any part of a public school system; any part of a private, organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor. As defined in MGL Chapter 28A Section 9, and as licensed or approved by the Department of Education and Early Care, or its successor.

**Drive-through establishment.** A retail or service establishment, excluding restaurants, that dispenses products or services to patrons who remain in vehicles. A drive-through establishment may be in conjunction with, or exclusive of, any other form of service.

**Driveway.** An area on a lot which: is for the passage of motor vehicles (and not for storing or standing of such vehicles except where serving four or fewer parking spaces), has an impervious surface, provides access and egress to and from a street, or interior drive, and leads to or from a parking space or loading bay (or their related maneuvering aisle).

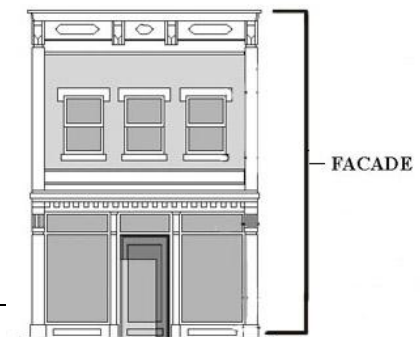
**Duplex house.** A house containing two dwelling units adjoining side by side; that is, in which no part of one dwelling unit is over any part of the other dwelling unit. A duplex shall be considered as one (1) principal building occupying one (1) lot for the purpose of determining yard requirements.

**Dwelling unit.** A room or group of rooms forming a habitable unit for one (1) family, with facilities which are used or intended to be used for living, sleeping, cooking and eating.

**Energy system, renewable.** Any facility or installation such as a windmill, hydroelectric unit, or solar collecting or concentrating array, which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use.

**Façade.** The portion of any exterior elevation on the building extending from grade to the top of the parapet, wall, or eaves and the entire width the building elevation.

**Family.** An individual or two or more persons related by blood, marriage, or legal adoption living together as a single housekeeping unit and including necessary





domestic help such as nurses or servants. A group of individuals not related by blood, marriage, or legal adoption, but living together as a single housekeeping unit may constitute a family. For purposes of controlling residential density, each such group of four (4) individuals shall constitute a single family.

**Family day care home.** Any private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under seven years of age or children under sixteen years of age if such children have special needs; provided, however, in either case, that the total number of children under sixteen in a family day care home shall not exceed six, including participating children living in the residence. Family day care home shall not mean a private residence used for an informal cooperative arrangement among neighbors or relatives, or the occasional care of children with or without compensation therefor. As defined in MGL Chapter 28A Section 9, and as licensed or approved by the Department of Education and Early Care, or its successor.

**Farm.** A place of land devoted to raising of crops or livestock or to any specific agricultural projects, as a dairy farm, such crops or livestock or portion thereof to be offered for sale.

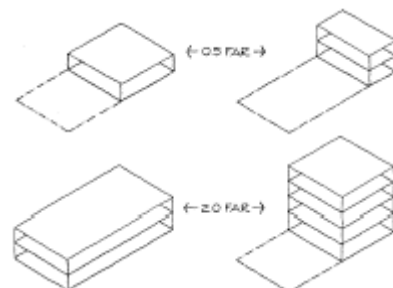
**Floodway.** The area subject to periodic flooding, the limits of which are determined by the flood line, as shown on the federal flood insurance rate maps dated September 16, 1982 and April 3, 1989, or as they may be amended thereafter.

**Floor area, gross.** The sum, in square feet, of the horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings. Where the text of this Ordinance refers to floor area, the term shall mean gross floor area unless the term net floor area is used.

**Floor area, net.** The sum, in square feet, of the occupiable or habitable area in a building, which shall be determined by excluding the following from calculation of gross floor area:

- a. Areas used for parking or loading.
- b. Areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment.
- c. The thickness of load bearing walls, at each floor.
- d. Elevator shafts and common stairways, and common hallways at each floor.
- e. Porches, balconies, fire escapes which are unroofed.

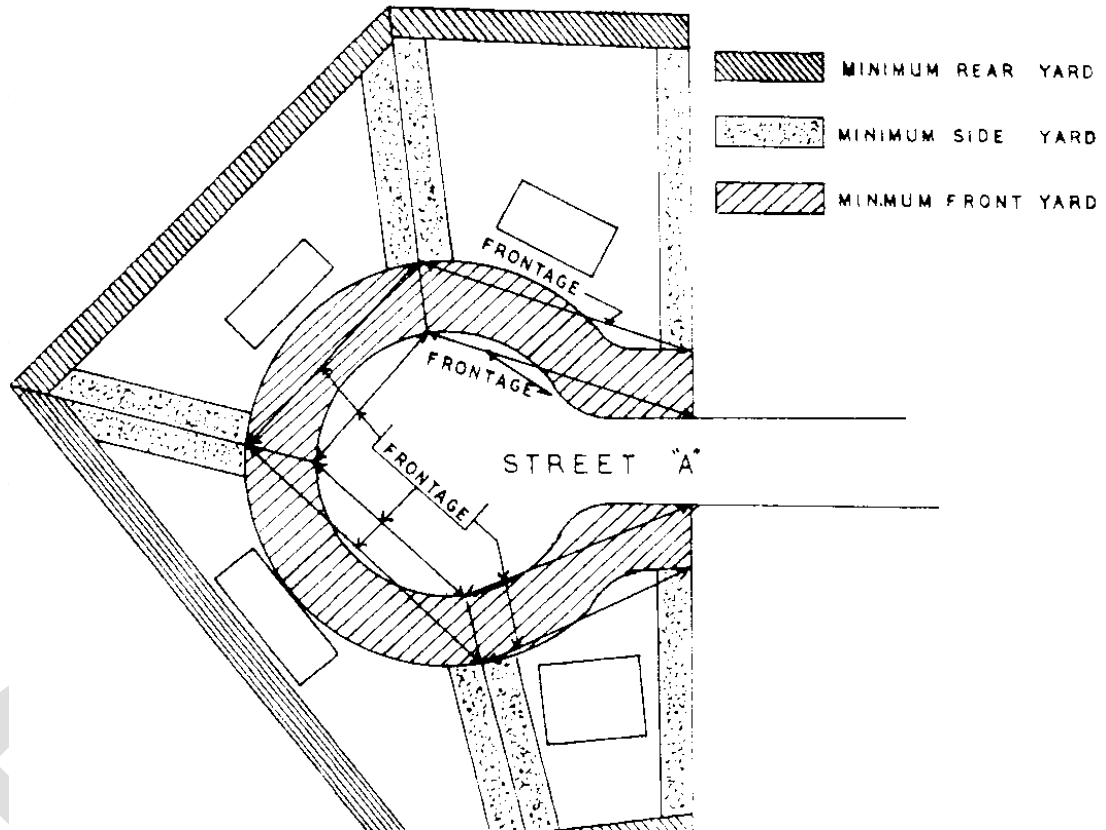
**Floor area, ratio (FAR).** The ratio of the sum of the net floor area of all buildings on a lot to the total area of the lot.





**Frontage, lot.** The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access and to which the owner could provide for vehicular access from a principal building or a required parking space. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in street line, and, in the case of a corner lot, may at the option of the owner extend to the midpoint of the curve connecting street lines, instead of to their intersection.

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t to which the owner of the lot has a legal right of access and which provides the required lot frontage. When a lot is bounded by more than one street, any one of them but only one may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot bounded by two streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

**Funeral establishment.** An establishment used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therein before burial or cremation.

**Garage, private.** A building used for the storage of automobiles owned and used by the owner or tenant of the lot on which it is erected for a purpose accessory to the use of the lot.

**Garage, public.** A building or structure, other than a private garage or repair garage, used primarily for the temporary parking and storage of vehicles which is available to the general public.

**Gas station minimart.** A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience store or supermarket.

**Groundwater.** All water found beneath the surface of the ground, including, without limitation, the slowly moving subsurface water present in aquifers and recharge areas. It is water found in the pore spaces of bedrock or soil, and it reaches the land surface through springs or it can be pumped using wells.

**Hazardous or toxic material.** Any material that (including, but not limited to) because of its quantity, concentration, chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. The term shall not include oil, but shall include waste oil and all those substances which are classified as hazardous under 42 U.S.C. section 9601 (14) and 310 CMR 30.000, as they may be amended, but it is not limited to those substances.

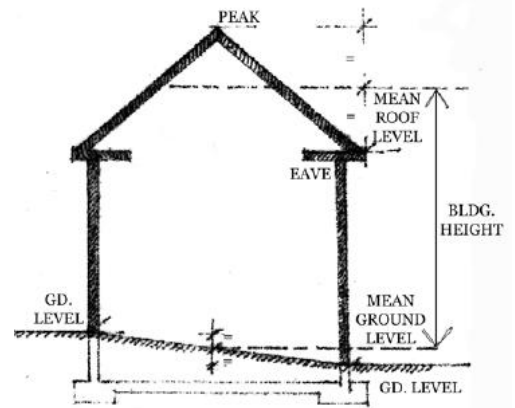
**Health Care Overlay District Definitions: (Note that the recent changes adopted by the City Council are not incorporated into this draft.)**

- a. **Development Envelope.** The boundary, established by the City Council in accordance with the procedures set forth in MG L Chapter 40A, Section 5, of the area within a designated HC Overlay District within which boundary development may occur in accordance with the provisions of **Article XII** without a Special Permit issued by the Special Permit Granting Authority pursuant to **subsection 96.4**. Development Area #1 (HODB/DE), Development Area #2 (DE-2), and the Multi Use Area (MUA) are shown on the Plan entitled Proposed Modification to the HCOD Boundary and HCOD Development Envelope, prepared by Whitman and Bingham Associates, RLS dated June 19, 2008 (the "W&B Plan") and on file with the City Clerk.
- b. **Development Limit.** The aggregate net floor area of any new building or structure for any principal Health Care Use that may be constructed within a specific Development Envelope after the designation of such Development Envelope, without Site Plan Approval under **subsection 96.3**.
- c. **Health Care Use.** A Hospital, a Medical Laboratory, a Medical Office, a Nursing or Convalescent Home, an Out-Patient Clinic or a Pharmacy.
- d. **Hospital.** A facility for the provision of health care services, licensed as an acute, sub-acute or chronic care facility by an appropriate governmental authority if and to the extent required by applicable law, including a facility for the provision of health care services eligible for reimbursement under any governmental or private insurance or other program for payment of any portion of the cost of such service.

- e. **Lot.** The entire property within the boundaries of a particular Health Care Overlay District, whether or not in common ownership, provided that the uses of such property are permitted under **Section 22-95.**
- f. **Medical Laboratory.** A facility for the provision of testing, analytical, diagnostic, pharmaceutical or other health care support services, equipment or procedures, whether or not owned by or affiliated with a Hospital.
- g. **Medical Office.** The offices of one or more providers of medical, dental, surgical, mental health, rehabilitation or other health care or health care support services, equipment or procedures, whether or not owned by or affiliated with a Hospital.
- h. **Nursing or Convalescent Home.** A facility for the assistance, maintenance, care, treatment or recuperation of mentally or physically handicapped, injured, invalid, convalescent or chronically ill persons on a full- or part-time basis, licensed by an appropriate governmental authority if and to the extent required by applicable law, including independent living facilities, assisted living facilities, continuing care/retirement facilities, congregate living facilities, group care facilities, nursing homes, long-term pediatric or geriatric care facilities, and rehabilitation or physical, psychiatric, psychological, cognitive or behavioral therapy facilities whether or not owned by or affiliated with a Hospital.
- i. **Out-Patient Clinic.** A facility for the provision of ambulatory health care services, licensed for the provision of such services by an appropriate governmental authority if and to the extent required by applicable law, including the sale, servicing or repair of medical devices and equipment to the general public whether or not owned by or affiliated with a Hospital, Out-Patient Clinic or Nursing or Convalescent Home.
- j. **Pharmacy.** A facility for the sale of prescription and/or non-prescription drugs, medications, and medical supplies to patients (whether ambulatory or in-patients) of any physician affiliated with a Hospital or other use in the same HC Overlay District, or to members of any health maintenance organization or health plan affiliated with such Hospital, but shall not mean a retail pharmacy serving the general public.
- k. **Story.** The distance in feet from the surface of a building floor to the next successive building floor or in the case of the uppermost floor from the surface of the uppermost floor to the surface of the roof deck.

**Health club.** A building or portion of a building designed and equipped for the purpose of physical fitness or weight reduction, leisure activities, conduct of sports, or other customary recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests or open to the public for a fee.

**Height, building.** The height of building shall be the vertical distance measured from the mean ground level of the established grade at the base of the building to the mean roof level.



**Home occupation/office.** A business use conducted within a dwelling unit that is incidental and secondary to the primary residential use, carried on by the inhabitants of the dwelling, and does not alter the residential character of the property.

**Hospital.** An institution licensed under MGL Chapter 111, Section 51,, for the purpose of caring for persons admitted thereto for diagnosis, medical, surgical or restorative treatment which is rendered within said institution.

**Hotel, Motel.** A building in which lodging, with or without meals, is offered for compensation. A central kitchen, dining room, conference and meeting rooms, and accessory shops catering to the general public can be provided.

**Impervious surface.** Any natural or manmade materials or structures on, above, or below the ground which do not allow surface water or precipitation to infiltrate the underlying soil, including, but not limited to building roofs, parking and driveway areas, graveled areas, sidewalks and paved recreation areas.

**Interior drive.** A roadway which is privately owned and maintained and serves a planned residential or commercial development. It may have many of the street characteristics of a street but does not meet the legal standards for Street, Road or Way as defined in this section. An interior drive is not the same as a driveway, which is the means or access to a parking lot or parking space; an interior drive is the connecting link between a public street and a driveway.

**Junk.** Waste or scrap articles or material.

**Junk yard.** Any land used for the deposit, collection or storage of waste, used or discarded things or materials, whether or not in connection with the dismantling, processing, salvage, sale or other use or disposition thereof; and the deposit or storage on any lot of one (1) or more wrecked or inoperative vehicles, or parts thereof, for one month or more shall be deemed to be a junk yard. Garaged vehicles shall be exempt from this provision.

**Kennel.** The boarding, breeding, raising, grooming, overnight boarding, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.

**Land.** Shall include the words "swamp" and "water."

**Leachable wastes.** Waste materials including solid wastes, sludge, sewage, pesticide and fertilizer wastes capable of releasing water-borne contaminants to the environment.

**Light Manufacturing.** An establishment or activity primarily engaged in manufacturing, production or assembly which does not involve, on the premises, the use of heat, noise, or odor generating/producing processes, which are detectable off-site. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted.

**Life sciences.** Advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research and veterinary science. (Chapter 130 of the Acts of 2008). Facilities that utilize animal testing of products are not included in this definition.

**Live/work.** A residential use within a commercial use that is incidental and secondary to the commercial use, and does not alter the commercial character of the property.

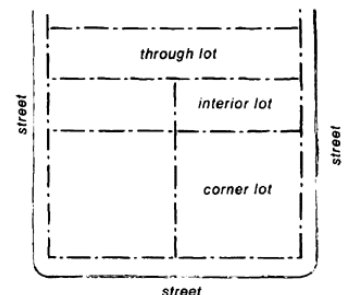
**Loading, off-street.** An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials, and merchandise.

**Local access television station.** A non-profit Media Arts Educational Organization, teaching media production, providing access to media equipment and hands-on training in media production to residents of Leominster, and overseeing Public, Educational, and Government broadcast on the local cable system.

**Lodging/rooming unit.** A unit in a boarding/lodging house which is let for living and sleeping but not cooking or eating purposes.

**Long-term care facility.** An institution or distinct part of an institution that is licensed by the Massachusetts Department of Public Health to provide 24-hour care under medical supervision to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

**Lot.** A parcel of land used, or set aside and available for use as, the site of one or more buildings, accessory buildings thereto or for any other purpose, including open space, under single ownership, not divided by a street, and not within the limits of a public or private way.



**Low impact development.** An approach to environmentally friendly landscaping and design techniques that attempts to maintain the natural, pre-developed ability of a site to manage rainfall. LID techniques capture water on site, filter it through vegetation, and let it soak into the ground where it can recharge the local water table rather than being lost as surface runoff.

**Maneuvering aisle.** An area on a lot which is immediately adjacent to one or more parking spaces or loading bays, is necessary for turning, driving or backing a motor vehicle into such parking space or loading bay, but is not used for the parking or standing of motor vehicles.

**Manufacturing.** The processing, fabrication, or assembly of materials or products, not inclusive of light manufacturing. Incidental activities such as storage, offices, wholesale sales, retail sales and employee-only recreation and eating facilities are permitted.

**Medical facility.** A building or structure containing uses concerned with the diagnosis, treatment and care of human beings. These include, but are not limited to, hospitals, dental services, medical services or clinics, nursing, convalescent homes, rest homes and sanitariums. These uses may involve the proper disposal of medical wastes.

**Mixed Use Development.** A development of two or more compatible land uses, such as residential, office, retail, recreational, light industrial, and open space.

**Motor vehicle trip.** Use of one motor vehicle by one or more persons which either begins or ends (regardless of the duration of parking or standing) on a lot, or at a use or establishment.

**Multifamily dwelling.** (see definition for apartment/multi-family dwelling)

**Nonconforming building, structure or lot.** A building, structure or lot that does not conform to a use or dimensional regulation prescribed in this Ordinance for the district in which it is located or to other regulations of this Ordinance but which building, structure or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

**Non-profit conservation or recreation organization.** An organization whose express purposes include ownership and/or management of property for recreation or conservation purposes.

**Nursing, rest or convalescent home.** An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Office, business/professional.** That office of a person or persons engaged in such generally recognized professions as, but not limited to, physician, dentist, psychologist, veterinarian, attorney at law, engineer, architect, landscape architect, interior designer, accountant or chiropractor.

**Parking lot.** An authorized area not within a building where motor vehicles are stored for the purpose of temporary, daily, or overnight off-street parking on a fee basis.

**Parking space.** An off-street space available for parking one motor vehicle in conformance with Article **XI**.

**Penthouse.** An apartment or dwelling attached to, built on or sloping from a wall or roof.

**Personal service establishment.** Establishments primarily engaged in providing individual services generally related to personal needs. Personal service establishments shall include, but not be limited to: barber shops and beauty shops; laundering, cleaning and other garment servicing establishments; tailors, dressmaking shops, shoe cleaning or repair shops; and other similar places of business.

**Pet services.** A business establishment maintained for the purposes of supporting pets to include, but not be limited to grooming, “day care”, and bathing. Overnight boarding of pets is not included.

**Recharge area.** That portion of the drainage basin where water enters the saturated zone and the net flow of ground water is directed from the saturated zone to a reservoir or aquifer.

**Recreation, indoor.** The use of a structure for recreational, social, or amusement purposes, which may include accessory uses like the consumption of food and drink, and education and retail services directed to patrons of the facility, including all connected rooms or space with a common means of ingress and egress. Such uses may include, but are not limited to, an athletic field or court, bowling alley, paint ball course, basketball court, tennis club, racquetball and handball courts, batting cages, miniature golf, skating rink, and swimming. These uses can be public or private in nature.

**Recreation, outdoor.** A use of land conducted for recreational, social, or amusement purposes outside of a building. Active recreational uses may include, but are not limited to, an athletic field, paint ball course, golf course, miniature golf, pitch and putt, skateboard park, swimming, tennis club, bocce, basketball court, batting cages, and driving ranges. Passive recreational uses may include, but not be limited to parks, gardens, hiking trails, horseback riding, historic sites, picnic areas, and cross country ski areas. These uses can be public or private in nature.

**Recreational vehicle or trailer.** A registered self-propelled camper or automobile-drawn trailer used as a mobile camping facility, with sleeping equipment, which may or may not have toilet or cooking facilities, and which is used for recreational purposes.

**Research and development facility.** A laboratory or similar facility that has as its primary purpose research, investigation, experimentation, and testing activities related to the fields of electronics, engineering, geology, physics, or other scientific area, but which does not involve radioactive materials, high intensity electromagnetic radiation, recombinant DNA, or controlled substances, or processes that produce, biological, chemical, or radioactive wastes. But not including facilities for the manufacture or sale of products, except as incidental to the main purpose of the facility.

**Residential social service facility.** A dwelling where care and supervision which is licensed, contracted for, or supervised by a federal or state agency, is provided to individuals who are handicapped, aged, disabled, or undergoing rehabilitation. Includes half-way houses but not nursing or foster homes.



**Restaurant.** An establishment where food and drink is prepared, served and consumed primarily within the principal building.

**Restaurant with drive-through window.** A restaurant where food and beverages are sold to the public for consumption either on the premises or elsewhere, by order from and service to vehicular passengers, whether or not there are seats inside the restaurant.

**Retail Store.** A business that sells consumer products directly to consumers and may include, but are not limited to department stores, and stores that sell the following: furniture, clothing, hardware, household furnishing, sporting goods, and electronics, and appliances.

**Self-storage facilities.** A building or group of buildings consisting of separate, self-contained units leased to individuals, organizations or business for self-service storage of personal property.

**Setback.** The minimum distance from a lot line to a building placed thereon, or feature thereof as is required in a particular situation by the Table of Dimensional Requirements.

**Setback, front.** Setback required from a front line and from any street line of a corner lot or a through lot.

**Setback line.** A line, whether straight or not, which denotes the location of the minimum setback.

**Setback, rear.** Setback required from a rear line.

**Setback, side.** Setback required from a side line.

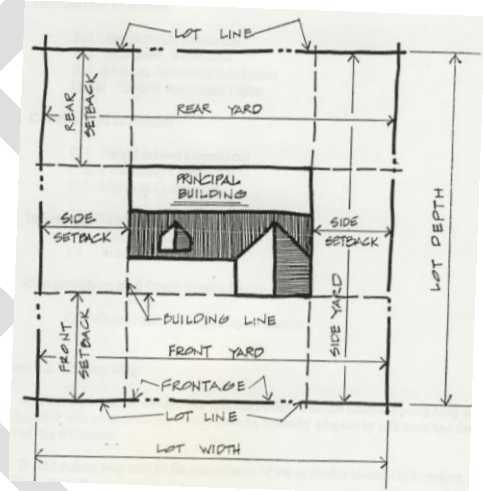
**Side line of a lot.** A line separating a lot from other lots or from land in a different ownership, other than a street line or a rear lot line.

**Sign.** A communication device, structure, or fixture that incorporates graphics, symbols or written copy intended to promote the sale of a product, commodity, or service, or to provide direction or identification for a structure or area.

**Sign, area of.** The surface area within a single continuous perimeter consisting of straight lines enclosing all the display area of the sign, but not including structural members not bearing advertising matter unless internally or decoratively lighted.

**Sign, attached.** A sign permanently erected or affixed to a building.

**Sign, freestanding.** A sign permanently erected or affixed to the land and not attached to a building.





**Sign, nonconforming.** A sign lawfully existing before the adoption of this Ordinance which does not now conform to the regulations of the Ordinance.

**Sign, off premises.** A sign whose subject matter relates to products, accommodations, services or activities not exclusively located on the same premises as that sign. Also referred to as billboards.

**Sign, temporary.** A sign which, by its inherent nature, can be expected to remain in place for less than two (2) months and whose subject matter relates exclusively to the premises on which it is located or to products, accommodations, services or activities on the premises.

**Service building.** Any building included within a manufacturing or office complex that provides basic retail services for employees.

**Special Permit.** A Special Permit is the permit granted by the Planning Board acting as the Special Permit Granting Authority as hereinafter provided, except for adult uses where the Special Permit Granting Authority is the City Council.

**Special Permit Granting Authority.** Depending on the kind of Special Permit and as designated in the Zoning Ordinance with authority to issue Special Permits, "Special Permit Granting Authority" shall include the Board of Appeals and the Planning Board.

**Street.** A public thoroughfare that affords the principal means of access to abutting property.

**Street furniture.** Those features associated with a street that are intended to enhance the street's physical character and use by pedestrians, such as benches, trash receptacles, kiosks, light fixtures, newspaper racks, etc.

**Streetscape.** The space between the buildings on either side of a street that defines its character. The elements of a streetscape include: building frontage/façade; landscaping; sidewalks; street paving; street furniture; signs; awnings; and street lighting.

**Story.** The portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is at least four feet six inches (4' 6") above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and without human occupancy.

**Story, half.** That portion of a building under a sloping roof, the cubic contents of which are never more than one-half of that of the story below. If the cubic contents are greater, it shall be deemed a story.

**Street line.** The established boundary line between the lot and the street. This is not to be considered as the edge of the traveled portion of the road or as the gutter or curb line of a

paved street unless such edge, gutter or curb line is on a street line as defined in this paragraph.

**Structure.** Anything constructed or erected which requires location on the ground or attachment to something having location on the ground, including but not limited to signs and billboards and tight board and concrete block fences four feet or more in height, but not including other fences.

**Studio.** A room or place for instruction in one of the performing arts, including but not limited to, music, theater, and dance; or for training and instruction in martial arts or yoga.

**Townhouse.** A building containing three or more dwelling units in a row in which each dwelling unit has its own front and rear access to the ground, no dwelling unit is located over another dwelling unit, and each dwelling unit is separated from another dwelling unit by one or more party walls.

**Trailer.** Any vehicle which is or can be used for sleeping, living, or working purposes and which is, has been, or can be mounted on wheels.

**Transportation service facility or trade depot.** An establishment providing transportation services including, but not limited to, the following: air transportation; bus terminals; heliports and helistops; railroad yards and railroad passenger terminals and truck stops, trucking terminals.

**Transportation demand management (TDM).** A strategy for reducing demand on the road system by reducing the number of vehicles using the roadways and/or increasing the number of persons per vehicle. TDM attempts to reduce the number of persons who drive alone on the roadway during the commute period and to increase the number in carpools, vanpools, buses, and trains, or walking and cycling.

**Trucking terminal.** A facility for the receipt, transfer, short-term storage, and dispatching of goods transported by truck. Included in the use would be express and other mail and package distribution facilities, including those operated by the U.S. Post Office.

**Two-family dwelling.** A building designed for or containing two independent dwelling units one above the other.

**Unit parking depth.** The distance required to accommodate two rows of parking and a common maneuvering aisle.

**Variance.** A variance is an authorization by the Board of Appeals granting relief to owners of land or buildings from “substantial hardships” that arise from literal enforcement of the provisions of this Zoning Ordinance.

**Warehousing (Wholesale, sale, storage).** Establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**Warehouse, retail.** An off-price or wholesale retail/warehouse establishment offering a full range of general merchandise to the public.

**Watershed.** A land area, also known as a drainage area, which collects precipitation and contributes runoff to a receiving body of water or point along a watercourse.

**Wind Energy Facility.** All of the equipment, machinery and structures together utilized to convert wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

**Wind Energy Facilities Definitions (See Section \_\_):**

- a. **Designated Location.** The locations designated by the Leominster City Council in accordance with M.G.L. c. 40A, § 5, where wind energy facilities may be sited as-of right. Said locations are shown on the City of Leominster Zoning Map on file with the City Clerk and dated \_\_\_\_\_.
- b. **Height:** The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point, or blade-tip height.
- c. **Rated Nameplate Capacity:** The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.
- d. **Utility-Scale Wind Energy Facility:** A commercial wind energy facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.
- e. **Wind Monitoring or Meteorological Tower.** A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate.
- f. **Wind Turbine.** A device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor with two or more blades.

**Wireless Communications.** Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services [47 U.S.C. Sec. 332 9c) (7) (C) (i)]. Functionally equivalent services are Cellular, Personal Communications Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging and Wi-Fi.

**Wireless Communications Definitions (See Section \_\_):**

- a. **Antenna.** The surface from which wireless radio signals are sent and received by a Wireless Communications Facility.

- b. **Camouflaged**. Disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.
- c. **Carrier**. A company that provides wireless services.
- d. **Co-location**. The use of a single mount on the ground by more than one carrier (vertical co-location) and or several mounts on an existing building or structure by more than one carrier.
- e. **Equipment Shelter**. An enclosed structure, cabinet, shed, or box, at the base of the mount within which are housed batteries and electrical equipment.
- f. **Guyed Tower**. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- g. **Fall Zone**. The area on the ground within a prescribed radius from the base of a Wireless Communications Facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- h. **Lattice tower**. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.
- i. **Licensed Carrier**. An entity or person authorized by the FCC to construct and operate a commercial mobile radio services system.
- j. **Monopole**. The type of mount that is self-supporting with a single shaft of wood, steel, or concrete and a platform (or racks) for panel antennas arrayed at the top.
- k. **Mount**. The structure or surface upon which antennas are mounted, including the following five (5) types of mounts:
  - 1. **Roof-mounted**: Mounted on the roof of a building.
  - 2. **Side-mounted**: Mounted on the side of a building.
  - 3. **Ground-mounted**: Mounted on the ground.
  - 4. **Structure-mounted**: Mounted on a structure other than a building.
  - 5. **Interior-mounted**: Mounted within a building/structure such that the Wireless Communications Facility is not visible from the exterior of the building/structure.
- l. **Panel Antenna**. A flat surface antenna usually installed in multiples.
- m. **Radiofrequency engineer**. An engineer specializing in electrical or microwave engineering, especially in the study of radiofrequencies.
- n. **Wireless Communications Facility**. Facility for the provision of wireless communications services.
- o. **Security Barrier**. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

- p. **Separation.** The distance between one carrier's array of antennas and another carrier's array.

**Yard.** An unoccupied space, open to the sky, on the same lot with the building or structure.

**Yard, front.** A yard extending across the full width of the lot and lying between the front of the lot and the nearest line of the principal building.

**Yard, rear.** A yard extending across the full width of the lot and lying between the rear lot line of the lot and the nearest line of the principal building.

**Yard, side.** A yard extending along the full depth of the lot and lying between the side lot line of the lot and the nearest line of the principal building.

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## ***Section 22-5. Districts: Established; Enumerated***

The City is hereby divided into districts of eight (8) types with three (3) overlay districts to be known as:

Rural Residence and Agriculture (RRA)	Business A (BA)	<u>Overlay Districts</u>
Residence A and Agriculture (RAA)	Business B (BB)	Floodplain
Residence B (RB)	Commercial (C)	Health Care
Residence C (RC)	Industrial (I)	Water Supply Protection
	<b>Mixed-Use1 (MU1)</b>	<b>Downtown Overlay (DOD)</b>
	<b>Mixed-Use2 (MU2)</b>	<b>Merriam/West St. (M/WOD)</b>
	<b>Village</b>	<b>Mechanic St. (MSOD)</b>

## ***Section 22-6. Boundaries***

The boundaries of each of the above-referenced zoning districts, except for the Floodplain Overlay District, are shown on the map accompanying this section and on file with the City Clerk entitled “Zoning Map, Leominster, Massachusetts, 2001.” The boundaries of the Floodplain Overlay District are described in Article V, Section 22-36 of this Ordinance.

All explanatory matter thereon is hereby made a part of this section.

- 6.1 Where the boundary lines are shown upon such map within the street lines of public and private ways, railroads or utility lines, the center lines of such ways shall be the boundary lines.
- 6.2 Where the boundary lines are shown approximately on the location of property or lot lines and the exact location of property, lot or boundary lines is not indicated by means of dimensions shown in figures, then the property or lot lines shall be the boundary lines.
- 6.3 Boundary lines located outside of such street lines, railroad or utility lines and shown approximately parallel thereto shall be regarded as parallel to such lines, and dimensions shown in figures placed upon such map between such boundary lines and street, railroad, and utility lines are the distances in feet of such boundary lines from such street, railroad or utility lines, such distances being measured at right angles to such street, railroad or utility lines unless otherwise indicated.
- 6.4 In all cases which are not covered by other provisions of this section, the location of boundary lines shall be determined by the distance in feet, if given, from other lines upon such map by the use of identifications as shown on the map or by the scale of the map.
- 6.5 Where the district boundary line follows a stream, lake or other body of water, such boundary line shall be construed to be at the thread of channel of the stream unless otherwise indicated.
- 6.6 Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portions of such lot shall extend no more than thirty feet into the more restricted portion; provided that:

- 6.6.1 The lot has frontage in the less-restricted district.
- 6.6.2 Where a lot extends from street to street, the frontage restriction prevails fifty percent of the depth.
- 6.7 Where property has not been specifically included within a district, it shall automatically be classed as lying in the most restricted district which abuts it.

### ***Section 22-7. Enforcement***

The Director of Inspections shall be charged with the enforcement of the Zoning Ordinance and shall withhold a permit for the construction, alteration, or moving of any building or structure if the building or structure, as constructed, altered or moved would be in violation of the Zoning Ordinance. No permit or license shall be granted for a new use of a building, structure, or land if such use would be in violation of the Zoning Ordinance.

The superior court shall have jurisdiction to enforce the provisions of the Zoning Act, and any ordinances adopted thereunder, and may restrain by injunction violations thereof.

### ***Section 22-8. Filing of Plans and Specifications***

With each application for a permit to build, there shall be filed a plan showing the lot, the area and location of such lot and building thereon. No building hereafter erected, altered or relocated shall be used and no change shall be made of the use of any building or any parcel of land, except for the use of land for agriculture, horticulture, or floriculture, unless an occupancy permit signed by the enforcing officer (Director of Inspections) has been granted to the owner or occupant of such land or building. Such permit shall not be granted unless the proposed use of the land or building and all accessory uses comply in all respects with the Zoning Ordinance, and no use shall be made of such land or building except the use or uses authorized by such occupancy permit.

### ***Section 22-9. Applicability of Ordinance to Existing Buildings and Uses***

Any lawful building or structure or lawful use of a building, structure, land or part thereof existing at the time of the adoption of this section shall not be affected by this section to the extent of the use existing at the time of adoption.

### ***Section 22-10. Recorded Lots***

- 10.1 Any lot or lots of land described in a deed and officially recorded with the registry of deeds may be used for any permitted use in the district in which the lot or lots are located, provided that:
  - 10.1.1 In the case of a nonconforming lot, the adjoining lot is not vacant and is not in the same ownership.
  - 10.1.2 Lots which do not conform to the requirements of Article III are used with the minimum nonconformance except that no lot shall be less than 5,000 square feet, no lots shall have less than 50 feet of frontage, nor any side yard less than eight feet.

- 10.1.3 Any lot on which more than one house existed at the time of the adoption of this Ordinance may be divided and sold to separate owners and used with a minimum of nonconformance.
- 10.2 If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to the Planning Board for approval under the subdivision control law; and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance; the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of the first submission of such plan. Provided that such definitive plan or amendments to is finally approved, the above mentioned exemption shall last for a period of eight years from the date of endorsement of the definitive plan.
- 10.3 When, as provided for in Section 2.1 of Leominster's Subdivision Regulations, a "Plan Not Requiring Approval" is submitted to the Planning Board and written notice of such submission is given to the City Clerk, the use of the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of such submission. If such plan is approved, the exemption shall last for a period of three years from the date of endorsement of such plan.
- 10.4 In the event that any lot shown on a plan endorsed by the Planning Board is the subject matter of any appeal or litigation, the exemption provisions of this section shall be extended for a period equal to that from the date of filing of the appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds, to waive the provisions of this section, in which case the Zoning Ordinance then in effect shall apply.

### ***Section 22-11. Lot Frontage***

Any building or structure can be erected, altered, enlarged, re-modeled or moved for any lawful purpose in this Ordinance; provided that any lot on which a principal building is hereafter erected or remodeled or moved shall have frontage in an amount as required in **Section 22-27** on:

- 11.1 A public way or a way which the City Clerk certified is maintained and used as a public way.
- 11.2 A way shown on a plan approved and endorsed in accordance with the Subdivision Control Law, Chapter 41, sections 81K through 81GG, Massachusetts General Laws.
- 11.3 An unaccepted street or way, but only after obtaining a Special Permit from the Planning Board, when the Planning Board has determined that such street or way has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and for the installation of municipal services to serve such land and the buildings to be erected thereon. The Planning Board may require that a method of performance security be filed by the applicant prior to the issuance of a building permit under this paragraph to ensure the proper completion of all required improvements and the construction and installation of the municipal services to serve such land and the buildings to be erected thereon.



## ***Section 22-12. Nonconforming Uses, Structures and Lots***

### 12.1 Nonconformity by Initial Enactment or Amendment

The provisions of this section apply to actions in connection with nonconforming uses, structures, and lots as created by the initial enactment of this Ordinance or by any subsequent amendment thereto.

### 12.2 Extension and Alteration

Except as hereinafter provided, this Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a Building or Special Permit issued before the first publication of notice of the public hearing on this Ordinance, but shall apply to any change or substantial extension of such use, to a Building or Special Permit issued after the first notice of said public hearing; to any reconstruction, extension or structural change of such structure, and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose except where alteration, reconstruction, extension or structural change to single or two-family residential structures does not increase the nonconforming nature of said structures.

### 12.3 Change, Extension or Alteration of Pre-existing Nonconforming Structures and Uses

#### 12.3.1 A Pre-existing Nonconforming Structure or Use or a Conforming Use on a Pre-existing Nonconforming Lot or in a Pre-existing Nonconforming Structure may be changed, extended or altered:

##### 12.3.1.1 As-of-Right when said change, extension or alteration conforms in all respects to the present zoning requirements.

##### 12.3.1.2 **As-of-Right when said change, extension or alteration is to conduct normal repairs or replacement of parts of any nonconforming structure and does not constitute an extension of a nonconforming use of such structure.**

##### 12.3.1.3 **As-of-Right when said change, extension or alteration occurs within the envelope of a nonconforming structure.**

##### 12.3.1.4 As-of-Right when said change or alteration is to rebuild a single or **multi**-family home destroyed by fire or other natural disaster within two years of the disaster.

##### 12.3.1.5 As-of-Right when said change or alteration is limited to rebuilding any other building not more than fifty percent destroyed by fire or other natural disaster when the change is limited to rebuilding or replacing the structure within the pre-existing foot print and height of the existing structure or within an area and height that conforms to all dimensional requirements and all construction occurs within two years of the disaster.

##### 12.3.1.4 As-of-Right when said alteration complies with all current setbacks and building height requirements but is located on a lot with insufficient area, lot frontage or lot width, where the alteration will also comply with all of said current requirements.

##### 12.3.1.5 As-of-Right when the existing structure encroaches upon one or more required yard or setback areas, but the alteration will comply with all current setbacks, yard and building height requirements. The

provisions of this subsection shall apply regardless of whether the lot complies with current area, frontage and width requirements.

- 12.3.1.6 With a Special Permit from the **Planning** Board when said change, extension or alteration will extend closer to any front, side or rear property boundary than the current zoning allows, provided that the Board finds that such change, extension or alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood, and **does not involve a sign**.

**Any existing nonconforming structure or use may be reconstructed, extended or altered provided that the Planning Board determines, after a public hearing, by the grant of a special permit that such reconstruction, extension or alteration meets the following criteria:**

- A. The structure or use:**
- 1. Includes adequate provision for off street parking;**
  - 2. Complies with the provisions of use regulations (Article \_\_\_\_).**
  - 3. The quality or character of the structure or use is substantially the same or better than the existing nonconforming structure or use.**
  - 4. The intensity of the structure or use is substantially the same or less than the existing nonconforming structure or use.**
  - 5. For residential structures, the reconstruction, extension or alteration shall be substantially the same or less than the prevailing use in its effect on the neighborhood.**

**The Planning Board may require appropriate conditions, on time or use. Violation of such conditions as are made a part of the terms under which the special permit is granted shall be deemed a violation of this ordinance.**

#### 12.4 Single Lot Exemption for Single and Two-family Use

Any increase in area, frontage, width, yard or depth requirements of the Zoning Ordinance shall not apply to a vacant lot for single and two-family residential use, which:

1. has at least 5,000 square feet of area and fifty (50) feet of frontage;
2. is in an area zoned for single or two-family use (a Special Permit must be obtained if one is required);
3. conformed to existing zoning requirements when the lot was legally created, if any;
4. is in separate ownership prior to the City Council vote which made the lot nonconforming, and has maintained its separate identity.

#### 12.5 Abandonment

Any nonconforming use of a conforming structure and lot which has been abandoned **and not used** for a continuous period of two (2) years or more shall not be used again except for a conforming use. For purposes of this section, the abandonment period shall not be broken by temporary occupancy except when such temporary occupancy is for a period of sixty (60) or more consecutive days.

12.6 Change, Extension or Alteration of a Pre-Existing Nonconforming Lot

A pre-existing nonconforming lot may only be changed, extended or altered as matter-of-right provided:

- 12.6.1 Such change, extension or alteration brings the lot into total conformance with the zoning requirements in existence at the time of said change, extension or alteration; or
- 12.6.2 Such change, extension or alteration only adds to the pre-existing nonconforming lot and does not reduce the area, frontage, width or depth of the lot; or
- 12.6.3 Such change, extension or alteration deducts land from the pre-existing nonconforming lot but in such a manner that such a reduction does not reduce the lot's area, frontage, width, depth, building setbacks, percent of building coverage or percent of open space below that which already exists on the pre-existing nonconforming lot or that which is required by the current Zoning Ordinance, whichever is the lesser.

### ***Section 22-13. Special Permits***

- 13.1 The Zoning Ordinance and the Table of Uses (**Section 22-26**) provide for specific types of uses which shall be permitted only in specified districts upon the issuance of a Special Permit. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the Ordinance, and shall be subject to general and specific provisions set forth herein. Such permits may also impose conditions, safeguards and limitations on time or use.
- 13.2 The Special Permit Granting Authority may grant a Special Permit authorized by this Ordinance if said Board finds, when applicable, that:
- 13.2.1 The proposal is suitably located in the neighborhood in which it is proposed and/or to the entire City, as deemed appropriate by the SPGA;
- 13.2.2 The proposal is compatible with existing uses and other uses permitted by right in the same district;
- 13.2.3 The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibration, lights, or visually offensive structures and accessories;
- 13.2.4 The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians;
- 13.2.5 Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
- 13.2.6 The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
- 13.2.7 The proposal ensures that it is in conformance with the sign regulations of the Ordinance (see Article XII);
- 13.2.8 The proposal provides convenient and safe vehicular and pedestrian movement within the site in relation to adjacent streets, property or improvements;
- 13.2.9 The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
- 13.2.10 The proposal provides adequate methods of disposal and/or storage for sewage, refuse and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
- 13.2.11 The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow; and
- 13.2.12 The proposal ensures protection of water quality in both public and private supplies.
- 13.3 Special Permits shall only be issued following public hearings held within sixty-five days after filing of an application with the Special Permit Granting Authority, which shall be the Planning Board, **except in**

**the case of adult entertainment uses where the Special Permit Granting Authority shall be the City Council (See Section 22-25).** The Special Permit Granting Authority shall adopt and from time to time amend rules relative to the issuance of such permits; and shall file a copy of said rules in the Office of the City Clerk. Such rules shall prescribe a size, form, contents, style and number of copies of plans and specifications and the procedure for a submission and approval of Special Permits. The Special Permit Granting Authority shall take final action within ninety days following a public hearing for which notice has been given by publication and posting, and by mail to all parties in interest. Failure by the Special Permit Granting Authority to take final action upon an application within said ninety days of the public hearing shall be deemed to be a grant of the permit applied for. Special Permits issued by the Special Permit Granting Authority shall require a two-thirds vote of authorities with more than five members and a vote of at least four members of five-member authorities.

- 13.4 Special Permits shall lapse two years after issuance if a substantial use thereof has not commenced except for good cause, or, in the case of a permit for construction, if construction has not begun within two years except for good cause.

#### ***Section 22-14. Adoption and Amendment***

- 14.1 The Zoning Ordinance may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereafter provided. Adoption or change of the Zoning Ordinance may be initiated by the submission to the City Council of a proposed zoning ordinance or amendment by the City Council, by the Board of Appeals, by an individual owning land to be affected by such change, by ten registered voters, by the Planning Board, by the Regional Planning Agency, or by other methods provided for by municipal charter. The City Council shall within fourteen days of receipt of such zoning ordinance submit such to the Planning Board for review.
- 14.2 No Zoning Ordinance or amendment thereto shall be adopted until after the Planning Board and the City Council have held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed ordinance is submitted to the Planning Board by the City Council. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the City in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in City Hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid, to the Department of Communities and Development, the Regional Planning Agency, and to the planning boards of all abutting cities and towns. A separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under this section shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the City Clerk no later than January first of each year, and pays a five dollar fee to cover notification cost. In cases involving boundary or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the City Clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this section shall invalidate any provisions of the Zoning Ordinance unless such defect is found to be misleading.
- 14.3 No vote to adopt any such proposed ordinance shall be taken until a report with recommendations by the Planning Board has been submitted to the City Council, or twenty-one days after the public hearing has elapsed without submission of the report of recommendations. After such notice, hearing, and report, or

after twenty-one days have lapsed after such hearing without submission of such report; the City Council may adopt, reject, or amend and adopt any such proposed ordinance or bylaw. If the City Council fails to vote to adopt any proposed ordinance within ninety days after the public hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.

- 14.4 No Zoning Ordinance shall be adopted or changed except by a two-thirds vote of all the members of the City Council. If there is filed with the City Clerk, prior to final action by the City Council a written protest against such change stating the reasons, and duly signed by owners of twenty percent or more of the area of the land proposed to be included in such change, or if the area of land immediately adjacent extending three hundred feet there-from, no such change of any ordinance shall be adopted except by a three-fourths vote of all members.
- 14.5 No proposed Zoning Ordinance which has been unfavorably acted upon by the City Council shall be considered by the City Council within two years after the date of such unfavorable action unless the adoption of such changes is recommended in the final report of the Planning Board.
- 14.6 The effective date of the adoption or amendment of any ordinance shall be the date on which such adoption or amendment was voted upon by the City Council.
- 14.7 After adoption of the Zoning Ordinance or amendments by the City Council, a copy of the latest effective zoning ordinance shall be sent by the City to the Department of Community Affairs.
- 14.8 No claim of invalidity of the Zoning Ordinance arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county or municipal official shall refuse, deny, or revoke any permit, approval or certification because of any such claim of invalidity unless within one hundred and twenty days after adoption legal action is commenced and notice specifying the court, parties, invalidity claimed, and date of filing if filed together with a copy of the petition with the City Clerk.

### ***Section 22-15. Penalty***

Violations of the Zoning Ordinance shall be punishable by a fine of not more than \$300 per violation; provided that each day such violation continues shall constitute a separate offense.

## ***ARTICLE II: USE REGULATIONS***

### ***Section 22-16. Generally Permitted Uses***

For the purposes of this section, the following uses of buildings, structures and land are permitted in all portions of the City subject to the provisions described below and in **Section 22-26** of the Table of Uses.

- 16.1 Any building or structure which conforms to the provisions of this section and with the Building Code of the City.
- 16.2 **Home occupations/offices are allowed as an accessory use by right in residential zoning districts. There is no specific application process; however one shall file for a building permit should changes to the dwelling unit be made. Examples of a home occupation/office include but are not limited to: professional offices, tax preparation, arts and crafts, music and dance lessons, computer work, consulting, tutoring, real estate, insurance, and accounting.** Customary home occupations and home offices, provided that:
  - 16.2.1 **No changes to the exterior of the property may be made that will alter the residential appearance or character of the building.**
  - 16.2.2 **The principal operator of the business shall be a resident of the property with only one additional outside employee allowed.**
  - 16.2.3 **Not more than 25% or four hundred (400) square ft. of the total floor area of the building, whichever is less, may be used for the business.**
  - 16.2.4 **The business does not create a nuisance to others in the area by reason of noise, odors, vibration, unsightly conditions, significantly increased traffic, improper disposal of wastes, or other reason.**
  - 16.2.5 **Not more than one vehicles or piece of heavy equipment whose gross vehicle weight exceeds 10,000 pounds may be stored or parked out of doors on the property. Such vehicle parking area shall be substantially screened.**
  - 16.2.6 **There shall be no outdoor storage of equipment or materials used in the home occupation.**
  - 16.2.7 No operation of the use shall occur between 10:00 p.m. and 7:00 a.m.

- 16.2.8 Home occupations/offices are not permitted to generate nonresidential traffic or vehicle parking above and beyond what is normal for the typical residential occupancy for the area. A residential building may have not more than two parking spaces to serve the in-home business. Parking on the street without causing an inconvenience may also be allowed.**
- 16.2.9 One display sign (non-illuminated not to exceed a total area of two (2) square feet) may be allowed that will indicate from the exterior of the dwelling that the building is being utilized in part for purposes other than that of a dwelling.**
- 16.2.10 Enforcement of these provisions shall be by the Director of Inspections and shall be subject to appeal to the Zoning Board of Appeals. Failure to comply with an order of the Director of Inspections shall be a zoning violation subject to fines as provided.**
- 16.3 Governmental buildings, parks, playgrounds, parking facilities and housing for the elderly under the jurisdiction of any governmental agency.
- 16.4 Sand, gravel, or loam removal subject to the provisions of City Ordinances regulating such removal.
- 16.5 Tight board, concrete block or any solid material fences four feet or more in height, provided that such fences shall not be erected beyond the front building line established for the building of houses.
- 16.6 A use which is incidental or accessory to the foregoing and which is the use of an owner or occupant, provided that:
- 16.6.1 For residences, such uses are limited to:
- 16.6.1.1 Private guest houses, tool sheds, playhouses, tennis courts, boat houses or other buildings or structures for domestic use, storage of boats and boat trailers and private garages for motor vehicles, but not including more than one commercial vehicle other than farm vehicles or more than one vehicle owned by a nonresident of the premises.
- 16.6.1.2 No more than four lodgers or boarders except in Residence B and C Districts.
- 16.6.1.3 The raising or keeping of flocks of poultry of ten (10) or less for use only by residents of the premises is permitted by right in all districts (see **Section 22-26**).
- 16.6.1.4 The raising or keeping of flocks of poultry of between ten (10) and fifty (50), or of saddle horses, private kennels, livestock or other farm animals for use only by residents of the premises is subject to the provisions of **Section 22-26**, Table of Uses.
- 16.6.1.5 **Accessory** Apartments authorized in accordance with the Special Permit requirements in Article XV of this Ordinance. *(Amended September 12, 2005)*
- 16.6.2 For farms, such accessory uses are limited to:
- 16.6.2.1 No more than four lodgers or boarders except in Residence B and C Districts.**
- 16.6.2.2 The raising or keeping of flocks of poultry of ten (10) or less for use only by residents of**



the premises is permitted by right in all districts (see **Section 22-26**).

- 16.6.2.3 The raising or keeping of flocks of poultry of between ten (10) and fifty (50), or of saddle horses, private kennels, livestock or other farm animals for use only by residents of the premises is subject to the provisions of **Section 22-26**, Table of Uses.**
- 16.6.2.4 Garages for farm vehicles and equipment, barns, greenhouses, silos, storage or other buildings for temporary or permanent farm use.
- 16.6.2.5 Stands for the sale of produce mainly raised on the premises only.
- 16.7 Trailers and mobile homes being used situated outside of mobile home parks and trailer parks shall be permitted in all portions of the City for periods of from more than one year but not to exceed eighteen months; provided that a permit in writing has been granted by the **Building Department** and provided further that the **Building Department** may renew such a permit for one or more additional periods of six months or less. For periods of time seven days or less, such permits shall be granted by the Chief of Police and shall not be renewable.
- 16.8 Accessory uses for activities which are necessary in connection with scientific research or scientific development or related production upon issuance of a Special Permit from the Planning Board, provided that such use does not substantially derogate from the public good.
- 16.9 Use of Undeveloped (Vacant) Lots
- 16.9.1 If one undeveloped lot is in a zoning district in which a desired, but non-permitted residential use is sought, and the lot is bordered by other lots which are predominately non-conforming residential uses, by Special Permit of the **Planning Board** a similar nonconforming residential use of that lot may be permitted, consistent with the zoning requirements for residential structures in the closest neighboring residential zoning district. *(Amended March 27, 2006)*
- 16.9.2 In the case of an Industrially-zoned, undeveloped lot of 1.5 acres or less which as in existence prior to July 1, 2005, the **Planning Board** may, by Special Permit, allow use of that lot for any business use listed in the **Section 22-26** Table of Uses as permitted by right or by Special Permit in the Business A or Business B Districts, if the **Planning Board** determines that there is no present, reasonable industrial use for the lot, and that the proposed use of the lot is not contrary to the general welfare, safety, health and morals of the City. The lot and structures thereon must comply with all dimensional requirements for the Business A District as set forth in **Article III** Dimensional Regulations. Any Special Permit granted hereunder is subject to Site Plan approval by the Planning Board. *(Amended March 27, 2006)*
- 16.10 In an Industrial, Commercial, or **MU1** district the **Planning Board** may grant a Special Permit allowing the use of an existing building for a use not otherwise permitted in the district in which the building is located. The proposed use must be one of the specific uses itemized in the Table of Uses for Business Uses contained in Article II **Section 22-26** as being permitted as of right or as being allowed subject to a Special Permit requirement in a Residence, Business, Commercial or Industrial District, exclusive of Adult Entertainment uses.
- 16.10.1 The **Planning Board** shall find that the proposed use will not be substantially more detrimental to the neighborhood than the prior use and such permits may also impose conditions, safeguards and limitations on size, time, use or such other items necessary to protect the character and integrity of the neighborhood.

- 16.10.2 Any Special Permit granted hereunder shall be exclusive to that particular use. All other proposed uses or expansions of the existing approved use must apply for a Special Permit. Condemned buildings and/or structurally unsound building may be razed or reconstructed provided all other conditions contained herein are satisfied and the size of the proposed building does not materially exceed the existing building. In granting this Special Permit, the **Planning Board** must find that not reasonable industrial alternative is available to the applicant.

### ***Section 22-17. Rural Residence and Agriculture Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as Rural Residence and Agriculture Districts, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Rural Residence and Agriculture Districts:

- 17.1 All permitted uses must comply with the appropriate provisions of **Section 22-16 and Article III**.
- 17.1.1 Farms and poultry farms, market gardens, orchards, nurseries, greenhouses and stands for the sale of produce mainly raised on the premises. Cultivated uses are allowed up to all property lines and street lines. Customer parking is allowed up to the street line. All other uses permitted in this subsection shall be not less than twenty-five feet from any street line, except that poultry farms shall consist of not less than five acres, and all buildings used for poultry farming shall be located not less than one hundred feet from all property and street lines.
- 17.1.2 For forests, wood lots, portable saw mills and machinery, there shall be no storage within fifty feet of any property line and one hundred feet of any street line.
- 17.2 Permitted uses and uses issued under a Special Permit must not be objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration, provided further that the use is not contrary to the general welfare, safety and health and morals of the City.

### ***Section 22-18. Residence A and Agriculture Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as Residence A and Agriculture Districts, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence A and Agriculture Districts:

- 18.1 All permitted uses must comply with the appropriate provisions of **Section 22-16 and Article III**.
- 18.2 The following special conditions apply to permitted uses:
- 18.2.1 For Farms and poultry farms and pig farms, market gardens, orchards, nurseries, greenhouses and stands for the sale of produce mainly raised on the premises. Cultivated uses are allowed up to all property lines and street lines. Customer parking is allowed up to the street line. All other uses permitted in this subsection shall be not less than twenty-five feet from any street line, except that poultry and pig farms

shall consist of not less than five acres, and all buildings used for poultry or pig farming shall be located not less than one hundred feet from all property and street lines.

- 18.3 Uses permitted upon issuance of a Special Permit by the Board of Appeals must meet the following additional conditions:
  - 18.3.1 They are not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration and that the use is not contrary to the general welfare, safety and health and morals of the City.
  - 18.3.2 The principal buildings are at least one hundred feet from all residential buildings.

### ***Section 22-19. Residence B Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Residence B District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence B District:

- 19.1 All permitted uses must comply with the appropriate provisions of Section 22-16 and Article III.
- 19.2 The following conditions must be met for permitted uses:
  - 19.2.1 New two-family attached residence buildings provided that:
    - 19.2.1.1 The lot size shall be at least 12,500 square feet.
    - 19.2.1.2 The areas used for buildings, parking, driveways and other permanent impervious surfaces shall not exceed fifty percent of the total lot area.
    - 19.2.1.3 The number of off-street parking spaces shall be in accordance with **Article \_\_\_\_** - Off-Street Parking.**
  - 19.2.2 When converting a single family residence building to accommodate two or more dwelling units:
    - 19.2.2.1 The exterior single-family character of the building shall not be altered other than by a second exit.
    - 19.2.2.2 There shall be at least six hundred square feet of floor area for each dwelling unit and each dwelling unit shall have separate toilet and cooking facilities.
    - 19.2.2.3 The renovation of an existing structure to increase the size of the structure or to convert a single-family residence to a two-family residence shall be allowed by right provided the lot size is at least 6,500 square ft. and off-street parking is provided for three (3) vehicles in the case of a conversion from a single-family to two-family residence.**
- 19.2.3 Boarding or lodging houses, tourist homes and nursing or convalescent home shall have no external evidence except an announcement sign in connection with any of the permitted uses; provided further that

such signs are located on the premises with the use which they announce and do not exceed six square feet in area.

- 19.2.4 The conversion of any building into a private club not conducted for profit, or into a funeral home or undertaking establishment, provided that if a single family dwelling unit is converted into such use, then the exterior one-family character of the building shall not be altered.
- 19.2.5 **Multi-family dwellings** permitted by right with Site Plan Approval shall meet all the following conditions:
- 19.2.5.1 The lot shall have an area not less than twenty thousand square feet and frontage of not less than one hundred and twenty feet.
- 19.2.5.2 The density shall not exceed five (5) units per gross acre.
- 19.2.5.3 The total number of units in multifamily structures whether on one or a number of abutting lots shall not exceed sixty.
- 19.2.5.4 The area used for building, parking, driveways and other impervious surfaces shall not exceed fifty percent of the total lot area.
- 19.2.5.5 **The number of off-street parking spaces shall be in accordance with Article \_\_\_\_ - Off-Street Parking.**
- 19.2.5.6 A screening and buffer strip shall be required when the development abuts a single family dwelling lot or a more restrictive zoning district. The strip shall be at least thirty feet in width, shall contain a screen of plantings in the center of the strip not less than three feet in width or six feet in height at the time of occupancy, and shall consist of individual shrubs or trees, of which at least fifty percent shall be evergreen, planted not more than three feet on the center. The strip shall thereafter be maintained by the owner so as to maintain a dense screen year round. A solid fence or wall, not to exceed eight feet or less than four feet in height, complemented by suitable plantings, may be substituted for such center screen.
- 19.2.5.7 Wetland areas are excluded from the calculation of total units per gross acre. A Site Plan must indicate wetlands boundaries and area for City confirmation. The Site Plan must include density calculations.
- 19.2.6 **Multi-family dwellings requiring a Special Permit.** Before the **Planning Board** approves an application for a Special Permit/**Site Plan Approval, the Board** shall find that all of the following requirements **have been** fulfilled:
- 19.2.6.1 The density shall not exceed eight (8) units per gross acre.
- 19.2.6.2 The lot area shall not be less than ten thousand square feet and the lot frontage shall not be less than one hundred feet.
- 19.2.6.3 The area used for building, parking, driveways and other permanent impervious surfaces shall not exceed thirty percent of the total lot area.

**19.2.6.4 The number of off-street parking spaces shall be in accordance with Article \_\_\_\_ - Off-Street Parking.**

19.2.6.5 Screening and buffer strips shall be required when the development abuts a single family dwelling lot or a more restrictive zoning district. The strip shall be at least fifty feet in width, shall contain a screen of plantings in the center of the strip not less than three feet in width or six feet in height at the time of occupancy, and shall consist of individual shrubs or trees, of which at least fifty percent shall be evergreen, not more than three feet on the center. The strip shall thereafter be maintained by the owner so as to maintain a dense screen year round. A solid fence or wall, not to exceed eight feet or less than four feet in height, complemented by suitable plantings, may be substituted for such center screen.

**19.2.6.6 Wetland areas are excluded from the calculation of total units per gross acre. A Site Plan must indicate wetlands boundaries and area for City confirmation. The Site Plan must include density calculations.**

19.2.6.7 The **Planning Board** may in appropriate cases approve an application for Special Permit subject to appropriate safeguards and conditions in addition to those listed above.

***Section 22-20. Residence C Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Residence C District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Residence C District:

20.1 All permitted uses must comply with appropriate provisions of **Section 22-16 and Article III.**

20.2 The following conditions must be met for permitted uses:

20.2.1 Dwellings for more than one family, provided that:

20.2.1.1 Site Plan Approval is given by the Planning Board.

20.2.1.2 The lot size shall be at least eight thousand square feet plus an additional five thousand (5,000) square feet for each dwelling unit. Density shall not exceed eight (8) units per acre.

20.2.1.3 The areas used for buildings, parking, driveways and other permanent impervious surfaces shall not exceed fifty percent of the total lot area.

20.2.1.4 The number of off-street parking spaces shall not be less than one and one-half spaces per dwelling unit.

20.2.1.5 Wetlands areas are excluded from the calculation of total units per gross acre. A Site Plan must indicate wetlands boundaries and area for City confirmation. The Site Plan must include density calculations.

20.2.2 **The renovation of an existing structure to increase the size of the structure or to convert a single-family or two-family residence to a two-family or three-family residence shall be allowed by right provided the lot size is at least 5,000 square ft. and off-street parking is provided for three (3) vehicles in the case of a conversion from a single-family to two-**

**family residence or five (5) vehicles in the case of a conversion from a two-family residence to a three-family residence.**

### ***Section 22-21. Business A Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Business A District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Business A District:

- 21.1 All permitted uses shall be:
  - 21.1.1 Subject to the appropriate provisions of **Section 22-16 and Article III**.
  - 21.1.2 Conducted in enclosed buildings or structures except as provided in **subsection 21.3** below and except for required off-street parking spaces.
- 21.2 The following conditions must be met for permitted uses:
  - 21.2.1 Outdoor advertising as regulated by General Laws, Chapter 93, Sections 29-33 inclusive and as permitted thereunder. The provisions of **Article XII subsections 81.3.1, 81.3.2, and 81.3.3** shall not apply.
  - 21.2.2 Residential uses must conform with the most restrictive residential zone abutting that particular Business A district.
- 21.3 The following uses permitted by Special Permit shall meet the following conditions:
  - 21.3.1 Automotive service stations for the dispensing of fuel, washing and lubricating of vehicles and such minor repairs as changing tires or cleaning plugs shall meet the following requirements:
    - 21.3.1.1 The property used for this purpose is not within two hundred feet measured along the street frontage of a place of assembly or residential district unless the property so used is separated by a street from the place of assembly or residential district.
    - 21.3.1.2 Exterior storage of automobiles on the premises is limited to the vehicles of employees and customers.
  - 21.3.2 Bus depots, taxi stands and other passenger stations shall meet the following requirements:
    - 21.3.2.1 The provisions of **subsection 21.3.1.1**.
    - 21.3.2.2 Any retail uses conducted within the structures are in compliance with the provisions of this subsection.

### ***Section 22-22. Business B Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Business B District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of

Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Business B District:

- 22.1 All permitted uses shall be:
  - 22.1.1 Subject to the appropriate provisions of **Section 22-16 and Article III.**
  - 22.1.2 Conducted in enclosed buildings or structures, except for required off-street parking spaces and for parking lots.
- 22.2 The following uses of land, buildings and structures are permitted with the following conditions:
  - 22.2.1 All uses permitted by right in Business A Districts. Residential uses in the Business B District shall not be permitted on the ground or street level, but are permitted on upper levels.
  - 22.2.2 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing or printing establishments, when approved in writing by the Director of Inspections, provided that:
    - 22.2.2.1 The ground floor premises facing upon and visible from the street shall be used only for entrances, sales, office or displays.
    - 22.2.2.2 The use is not objectionable to residents of adjacent property because of objectionable cinders, dust, fumes, noise, odors, refuse matter, smoke, vapor or vibration resulting from assembling, remodeling, repairing, altering, finishing, refinishing or marking the merchandise or other aspects of the business on the premises.
  - 22.2.3 Outdoor display of merchandise shall meet the following conditions:
    - 22.2.3.1 It is incidental to one of the uses permitted in Business B Districts.
    - 22.2.3.2 It is entirely on the property of the displaying establishment.
    - 22.2.3.3 It conforms to all safety regulations required by the Chief of the Fire Department.

### ***Section 22-23. Commercial Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Commercial District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Commercial District:

In all portions of the City indicated on the Zoning Map as Commercial Districts:

- 23.1 All permitted uses shall be subject to the appropriate provisions of **Section 22-16 and Article III.**
- 23.2 The following uses of land, buildings and structures are permitted with the following conditions:



- 23.2.1 Office displays or interior sales space of custom shops and wholesale, jobbing, assembling, distributing or printing establishments, when approved in writing by the Director of Inspections, provided that:
  - 23.2.1.1 The ground floor premises facing upon and visible from the street shall be used only for entrances, sales, offices or displays.
  - 23.2.1.2 The use is not objectionable to residents of adjacent property because of objectionable cinders, dust, fumes, noise, odors, refuse matter, smoke, vapor or vibration resulting from assembling, remodeling, repairing, altering, finishing, refinishing or marking the merchandise or other aspects of the business on the premises.
- 23.2.2 Light manufacturing using portable electrical machinery shall be located above the ground floor of a business building.
- 23.2.3 Mobile home parks and trailer parks shall receive approval in writing from the City Council.
- 23.2.4 Outdoor storage shall meet the following conditions:
  - 23.2.4.1 It is incidental to one of the uses permitted in Commercial Districts.
  - 23.2.4.2 It is adequately fenced and screened from the street and adjacent properties.
- 23.2.5 The manufacturing of products is permitted provided that the major portion of products are to be sold at retail by the manufacturer to the consumer upon the premises where manufactured.
- 23.3 Upon issuance of a Special Permit by the **Planning Board**, any other use determined by the **Planning Board** to be similar in character and in effect on adjacent property shall be permitted, provided that the use is not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration; provided further that the use is not contrary to the general welfare, safety, health and morals of the City.
- 23.4 In granting Site Plan Approval for any project in a Commercial District that includes at least 10,000 square feet of retail space, the Planning Board may waive any of the requirements of **Articles VIII or XI** regarding the width or number of driveways, the height of light standards, the extent of paving or the landscaping of parking areas, and substitute therefore the features shown on the approved Site Plan.

### ***Section 22-24. Industrial Districts***

Except as provided in **Section 22-16**, in all portions of the City designated on the Zoning Map as the Industrial District, no land or buildings shall be used for any use not set forth in **Section 22-26** Table of Uses as one allowed in the district by right or as one allowed in the district subject to a special permit requirement. In addition, in the Industrial District:

In all portions of the City indicated on the Zoning Map as Industrial Districts:

- 24.1 All permitted uses shall be subject to the appropriate provisions of **Section 22-16 and Article III**.
- 24.2 The following uses of land, buildings and structures are permitted with the following conditions:



- 24.2.1 Research, development and production utilizing recombinant DNA technology, provided that the uses fully comply with the provisions of Chapter 19A of the Leominster Municipal Code.
- 24.2.6 Manufacturing uses shall be permitted, except that the following uses are specifically **prohibited**:
- 24.2.6.1 Blast furnaces.
- 24.2.6.2 Cement, gypsum, lime or plaster of paris manufacture.
- 24.2.6.3 Coke manufacture.
- 24.2.6.4 Creosote manufacture.
- 24.2.6.5 Distillation of bones, coal or wood.
- 24.2.6.6 Explosives or fireworks manufacture.
- 24.2.6.7 Fat, grease, lard or tallow rendering.
- 24.2.6.8 Gas (fuel or illuminating) manufacture in excess of one thousand cubic feet per day or storage in excess of ten thousand cubic feet, except in a municipal or public service plant.
- 24.2.6.9 Gelatin, glue or size manufacture from fish, animal refuse or offal.
- 24.2.6.10 Hair manufacture.
- 24.2.6.11 Hot rolling mill for steel manufacture only.
- 24.2.6.12 Hydrochloric, nitric, picric, sulfuric or sulphurous acid manufacture
- 24.2.6.13 Incineration, reduction or dumping of dead animals, garbage, offal or refuse except by the City or its agents or when accumulated and consumed on the same premises without the emission of odor.
- 24.2.6.14 Asphalt (otherwise known as felt-base linoleum).
- 24.2.6.15 Match manufacture.
- 24.2.6.16 Petroleum production or refining.
- 24.2.6.17 Slaughtering, except as permitted by the Board of Health, or stock yards, except as appurtenant thereto.
- 24.2.6.18 Tanning, curing or storage of raw hides or skins.
- 24.2.6.19 Turpentine manufacture.
- 24.2.6.20 Storage-collection, treatment, burial, incineration, or disposal of radioactive wastes.
- 24.2.6.21 Manufacture of pesticides

**24.2.6.22 Piggeries.**

**NOTE: Sections 22-25 – 22-31 are new.**

*Section 22-25. Mixed Use 1 (MUI)*

**25.1 Purpose**

The purposes of the Mixed Use 1 District are to:

- 25.1.1 Provide for the coordinated and mixed development of residential, business, industrial, manufacturing and/or institutional uses;**
- 25.1.2 Encourage adaptive reuse of abandoned, vacant or underutilized business or manufacturing buildings or structures on industrially zoned land or land previously used for an industrial use;**
- 25.1.3 Allow for a mix of new land uses that are appropriate to both the needs of the City and the scale of surrounding neighborhoods;**
- 25.1.4 Create major new mixed used areas in planned locations at appropriate densities, heights and mixtures of use;**
- 25.1.5 Encourage flexibility in site and architectural design, restoration and building bulk;**
- 25.1.6 Encourage building reuse and infill to create higher densities; and**
- 25.1.7 Maintain a consistently high level of design quality.**

**25.2 Establishment**

The Mixed Use 1 District is hereby established and consists of those areas shown on the City of Leominster Zoning Map on file with the City Clerk and dated \_\_\_\_\_.

**25.3 Authority and Applicability**

- 25.3.1 The Planning Board shall act as the administering authority for any Site Plan Approval procedure associated with this Ordinance (See Article \_\_ Section \_\_). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in this district.**
- 25.3.2 The provisions of this Section shall apply to the reuse, redevelopment or reconstruction of existing vacant or underutilized buildings located on land zoned as Industrial or previously used for an Industrial use pursuant to this Ordinance as of the effective date of this Section.**

**25.3.3** Where standards or other requirements listed as part of this overlay district may conflict with those in the underlying district, the overlay provisions shall apply.

#### **25.4 Dimensional Requirements**

**25.4.1** **Setbacks:** Maximum setbacks shall be the lesser of the minimum setbacks required in the underlying district or the average setback between two buildings that pre-date this zoning ordinance and are either currently occupied or shall be reoccupied as part of a coordinated development plan. The Planning Board may reduce front, side and rear yard setbacks to as low as zero (0) feet as part of a Special Permit application as long as the following conditions are met:

**25.4.1.1** Primary entrances to proposed and existing buildings are situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet;

**25.4.1.2** The setback is consistent with the fabric of the existing street and does not preclude pedestrian access;

**25.4.1.3** Adequate parking is provided pursuant to **Section 22-25.6**;

**25.4.1.4** Adequate access for loading and emergency vehicles is maintained on one side of the building;

**25.4.1.5** Adequate natural lighting and air circulation for businesses and residents is maintained; and

**25.4.1.6** Adequate management strategies for stormwater and waste management are provided.

**25.4.2** **Height Limitations:** Building height shall not exceed fifty feet (50') and no building shall have more than four (4) stories. In the event that the existing building to be redeveloped or replaced exceeds said height limitation, the redevelopment or replacement of the building may be allowed to meet its original height.

**25.4.3** **Frontage:** As part of any Special Permit application, the Planning Board may authorize frontage as low as forty feet (40').

#### **25.5 Intensity of Use**

Applicants may propose more than one principal building per lot as part of a Special Permit application. Configuration of these buildings is subject to the Dimensional Requirements listed in **Section 22-25.4** and the Design Standards listed in **Section 22-25.7** of this Article.

#### **25.6 Parking Requirements**

The parking standards found in **Article \_\_\_\_** of this Ordinance shall apply in the Mixed Use 1 District. As part of a Special Permit Application within this overlay district, the applicant may request reductions to minimum requirements or alternative methods for meeting the required parking pursuant to **Article \_\_\_\_** of this Ordinance relating to shared parking and

other alternative parking arrangements. No off-street parking shall be permitted within the front yard.

## **25.7 Design Standards**

The Design Standards in this section shall be applied to development within the Mixed Use 1 District where applicable. The Planning Board may waive any of these standards if the applicant can provide compelling evidence that the waiving of Design Standards shall work to preserve the historic quality of existing buildings and sites or shall otherwise further the goals of this Ordinance.

### **25.7.1 Buildings**

- 25.7.1.1** Where existing structures of architectural value are to remain in use, the architectural integrity of these existing structures shall not be significantly altered through the use of different signage, building materials or other architectural features.
- 25.7.1.2** All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;
- 25.7.1.3** Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. The use of vinyl, unfinished metal or fiberglass as a primary finished surface shall be prohibited;
- 25.7.1.4** Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;
- 25.7.1.5** New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide a continuity to pedestrians: awning, marquee, arcade and/or colonnade; and
- 25.7.1.6** Flat roofs are prohibited on single story buildings and may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet.

### **25.7.2 Signs**

- 25.7.2.1** Primary signs shall be flat against the façade, or mounted projecting from the façade;
- 25.7.2.2** Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level;
- 25.7.2.3** Freestanding directory signs may be permitted as part of coordinated development proposals in which several non-residential operations are accessed through a common vehicular entrance and shall not exceed ten (10) feet in height;
- 25.7.2.4** Signs shall be externally lit from the front. Back lighting of signs shall not be used;

- 25.7.2.5 Neon, flashing signs, moving signs and roof signs shall not be used;
- 25.7.2.6 Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed, after approval by the Director of Inspections;
- 25.7.2.7 Signs shall be made of attractive materials consistent with the character of the district.
- 25.7.2.8 Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on façade surface;
- 25.7.2.9 Pre-existing signs that do not conform to the provisions of this Ordinance may be allowed through the Special Permit application. The Planning Board shall require, as a condition of the permit, that the applicant sign an agreement to maintain the sign on a schedule agreeable to the Board.
- 25.7.2.10 Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.

### **25.7.3 Site Design**

- 25.7.3.1 Street level frontage shall be devoted to entrances, shop windows or other displays;
- 25.7.3.2 Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- 25.7.3.3 Where residential neighborhoods abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- 25.7.3.4 No residential dwelling units shall be located on the ground floor.

### **25.8 Pre-Application Meeting**

In order to facilitate review of the Special Permit at the pre-application stage, applicants are strongly encouraged to submit the information below using readily available GIS information or other mapping resources such as USGS Quadrangles and aerial photography. This information need not be developed by a qualified design professional.

- 25.8.1 **Site Context Map.** This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or developed features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.
- 25.8.2 **Existing Conditions/Site Analysis Map.** This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this

base map shall locate and describe noteworthy site resources including existing buildings, parking areas, street names and natural features.

## **25.9 Application Requirements**

Applicants for a Special Permit within the Mixed Use 1 District shall provide, at a minimum, the information specified for an Existing Conditions Plan and a Concept Plan below.

### **25.9.1 Existing Conditions Plan**

**25.9.1.1** The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;

**25.9.1.2** The names, approximate location, and widths of adjacent streets;

**25.9.1.3** The underlying Zoning District(s);

**25.9.1.4** Existing topography at 2-foot contour intervals.

**25.9.1.5** All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Existing Conditions Plan.

**25.9.1.6** If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.

**25.9.1.7** A description of any Site Assessment activities that have taken place on contaminated sites and a summary of those findings and activities.

### **25.9.2 Concept Plan and Related Information**

**25.9.2.1** The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;

**25.9.2.2** Identification of buildings to be restored, rehabilitated, or constructed;

**25.9.2.3** Identification of buildings to be removed;

**25.9.2.4** Proposed uses including the density or intensity of the proposed use;

**25.9.2.5** Proposed internal and external traffic and circulation patterns;

**25.9.2.6** Proposed parking needs, including provisions for shared parking between uses, if applicable;

**25.9.2.7** Proposed location and, where applicable, sizing of utilities including water supply, sewer, electrical and communications service, stormwater, and solid waste containment and disposal;

- 25.9.2.8** Proposed landscaping, lighting and signage features;
- 25.9.2.9** A narrative description of items 2 through 8 in the Concept Plan;
- 25.9.2.10** Architectural elevations for proposed new buildings; and
- 25.9.2.11** Where more than 20,000 square feet of new development or redevelopment is proposed, a traffic study showing the impact of the proposed development on the surrounding area shall be provided. The traffic study shall include existing and expected volumes at build-out, the expected directional distribution of vehicles to and from the site, and existing and expected levels of service at all intersections located within 3,000 feet of the site.
- 25.9.3** The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance. To the extent permitted by law, the Planning Board shall coordinate the public hearing required for any application for a Special Permit within the Mixed Use 1 District with the public hearing required for approval of a definitive subdivision plan.
- 25.10** Procedure
- 25.10.1** Whenever an application for a Special Permit is filed with the Planning Board pursuant to the requirements of this overlay, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan and other documentation to the Conservation Commission (if applicable), Historical Commission, Director of Inspections, Department of Public Works, Police Chief, and Fire Chief for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.
- 25.10.2** Site Visit. The Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.
- 25.11** Decision Criteria for the Planning Board
- The Planning Board may approve, approve with conditions or deny an application for a Special Permit within the Mixed Use 1 District. The criteria for this decision are as follows:

- 25.11.1 The degree to which the proposed development furthers the purposes of this Ordinance as listed in **Section 22-25.1**;
- 25.11.2 Compliance with the Parking Requirements listed in **Section 22-25.6**;
- 25.11.3 Compliance with the Design Standards in **Section 22-25.7**; and
- 25.11.4 The ability of the neighborhood to absorb the level of traffic that will result from the proposed development.

*Section 22-26. Mixed Use 2 (MU2)*

**26.1 Purpose**

The purposes of the Mixed Use 2 District are to:

- 26.1.1 Provide for the coordinated and mixed development of large-scale commercial, business, industrial, manufacturing, multi-family residential, and/or institutional uses;
- 26.1.2 Encourage use of large, primarily undeveloped parcels;
- 26.1.3 Provide economic development opportunities through clean industry, office, and commercial uses;
- 26.1.4 Encourage infill projects and the development of sites made difficult because of shape, size, abutting development, or topography;
- 26.1.5 Create major new mixed used areas in planned locations at appropriate densities, heights and mixtures of use, while buffering adjacent land uses to minimize off-site impacts;
- 26.1.6 Encourage flexibility in site and architectural design; and
- 26.1.7 Maintain a consistently high level of design quality.

**26.2 Establishment**

The Mixed Use 2 District is hereby established and consists of those areas shown on the City of Leominster Zoning Map on file with the City Clerk and **dated \_\_\_\_\_**.

**26.3 Authority and Applicability**

- 26.3.1 The Planning Board shall act as the administering authority for the Site Plan Approval procedure associated with this Ordinance (**See Article \_\_ Section \_\_**). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in this district.



- 26.3.2 Although mixed use developments are encouraged, a single industrial use development may be permitted provided that such use is allowed in the MU2 District, except as provided for in **Section 22-26.3.4** below.
- 26.3.3 Notwithstanding the provisions of **Section 22-26.3.2** above, multi-family housing shall not be permitted unless there is a non-residential component to the Mixed Use project, such as, industrial, retail, or office space. If multi-family housing is proposed as part of a Mixed Use project, it may be built within the same structure as a non-residential use, but may not be contained on the first floor. Multi-family housing may also be permitted in a separate building only if at least one other non-residential building is proposed. In no case shall the housing component (when located within a separate building) comprise more than 33% of the land area of the entire project. The housing component of such a project shall not commence until the non-residential portion of the project is at least 60% complete taking into consideration buildings previously constructed as part of a mixed use project.
- 26.3.4 A Mixed Use project may be permitted in the MU2 District and planned, developed, owned or managed as a cohesive unit. A site on which a MU2 project is undertaken may be made up of parcels in separate ownership, but shall be considered as a single lot for the purposes of all use, dimensional, open space, landscaping and design requirements of this Ordinance including yards, setbacks, buffers, the number and design of parking spaces and areas, location or design of driveways or interior drives, and location and quantity of open space. Any setback, yard, or buffer requirements otherwise applicable at the perimeter of a lot, shall, in the MU2 District, apply only at the perimeter of the site of the Mixed Use project.
- 26.3.5 Site Plan Approval from the Planning Board shall be required for any proposed project in the MU2 zoning district and a Special Permit from the Planning Board may also be required for uses as designated on the Table of Uses. (**See Article \_\_\_\_ Section \_\_\_\_**).
- 26.4 Intensity of Use
- Applicants may propose more than one principal building per lot as part of a Site Plan Approval or Special Permit application. Configuration of these buildings is subject to the Dimensional Requirements listed in **Article \_\_\_\_ Section \_\_\_\_** and the Design Standards listed in **Section 22-26.6**. The height limit for any building in the MU2 District shall be three (3) stories or fifty (50) feet.
- 26.5 Parking Requirements
- The parking standards found **in Article \_\_\_\_** of this Ordinance shall apply in the MU2 District, except that any multi-family dwelling shall provide two (2) parking spaces per unit regardless of the number of bedrooms in the dwelling unit.
- 26.6 Design Standards
- The Design Standards in this Section shall be applied to development within the MU2 District where applicable. The Planning Board may waive any of these standards if the

applicant can provide compelling evidence that the waiving of Design Standards shall work to further the goals of this Ordinance.

**26.6.1 Multi-family dwellings**

26.6.1.1 For developments of thirty (30) or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided. The Planning Board shall have the discretion to determine an appropriate length for such landscaped median based upon the size of the project.

26.6.1.2 Sidewalks shall be constructed within the interior of the development to link residential buildings with other facilities and amenities serving said residential buildings, such as, but not limited to, parking, adjoining sidewalks and streets, mailboxes, trash disposal, greenways, and recreation areas.

26.6.1.3 For every new dwelling unit created under this Section, 450 square feet of parkland or open space shall be established and set aside as a children's playground, courtyard, passive greenspace, or park. Impervious areas, utility easements, or roadway rights-of-way shall not be considered parks or open space pursuant to this Section.

26.6.1.4 Building design for multi-family buildings shall:

26.6.1.4.1 Have a multi-faceted exterior form in which articulated façades are combined with window and door placements as well as other detailing;

26.6.1.4.2 Buildings shall be arranged parallel to a sidewalk or around common open space such as courtyards, greens, squares, or plazas; and

26.6.1.4.3 Entryways shall face the street, sidewalk, or common area. Buildings shall not face the rear of other buildings on the same lot or parcel.

26.6.1.5 The maximum density shall be twelve (12) units per acre.

**26.6.2 Non-residential buildings**

26.6.2.1 All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;

26.6.2.2 Building finish materials shall include, but not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. The use of vinyl, unfinished metal other than copper, or fiberglass as a primary finished surface shall be prohibited;

26.6.2.3 Blank walls adjacent to streets, alleys or open spaces shall not be permitted. The ground floors of all buildings shall be designed to encourage and complement pedestrian-scale activity by the use of windows and doors visible and accessible to the street. Where windows are not possible or appropriate to the intended use, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;

- 26.6.2.4 All street-level retail uses with sidewalk frontage shall be furnished with an individual entrance and direct access to the sidewalk in addition to any other access that may be provided;
- 26.6.2.5 New retail buildings shall have one of the following features along the front surface at intervals sufficient to provide a continuity to pedestrians: awning, marquee, arcade and/or colonnade;
- 26.6.2.6 Flat roofs are prohibited on buildings unless the roofline projects outward from the building surface as a decorative cornice or parapet or other similar architectural design feature; and
- 26.6.2.7 Mechanical equipment, electrical meter and service components, and similar utility devices, whether ground level, wall mounted, or roof mounted, shall be screened from view at the front property line.
- 26.6.3 Site Design**
- 26.6.3.1 Street level frontage shall be devoted to entrances, shop windows or other displays;
- 26.6.3.2 Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- 26.6.3.3 Where residential neighborhoods abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- 26.6.3.4 Landscaping shall be required as set forth in **Article \_\_**;
- 26.6.3.5 At least four (4) Low Impact Development techniques, as described in **Article \_\_ Section \_\_**, shall be incorporated into the project design; and
- 26.6.3.6 No residential dwelling units shall be located on the ground floor of buildings proposed to include a mix of residential and non-residential uses.
- 26.6.4 Buffer**
- 26.6.4.1 A minimum landscaped, or naturally vegetated if determined to be adequate by the Planning Board, buffer area of thirty (30) feet shall be established between different uses within the MU2 District.
- 26.6.4.2 A minimum landscaped, or naturally vegetated if determined to be adequate by the Planning Board, buffer area of fifty (50) feet shall be established between any development within the MU2 District and the adjacent zoning district.
- 26.6.4.3 The buffer area required by this Section shall be provided along the side or rear lot lines of abutting uses.

- 26.6.4.4** The buffer area shall be planted with a mixture of canopy trees with a minimum measure of 2 ½ inches diameter breast height (dbh) and shrubs, at least two feet high, 50% of which are evergreen. Trees and shrubs shall be immediately replaced if they die (or in the next growing season if the tree or shrub dies in the fall or winter).

**26.7 Pre-Application Meeting**

In order to facilitate review of the Special Permit at the pre-application stage, applicants are strongly encouraged to submit the information below using readily available GIS information or other mapping resources such as USGS Quadrangles and aerial photography. This information need not be developed by a qualified design professional.

- 26.7.1** Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it shall show various kinds of major natural resource areas or developed features that cross parcel lines or that are located on adjoining lands. This map enables the Planning Board to understand the site in relation to what is occurring on adjacent properties.

- 26.7.2** Existing Conditions/Site Analysis Map. This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, this base map shall locate and describe noteworthy site resources including existing buildings, parking areas, street names and natural features.

**26.8 Application Requirements**

Applicants for a Special Permit within the MU2 District shall provide, at a minimum, the information specified for an Existing Conditions Plan and a Concept Plan below.

**26.8.1 Existing Conditions Plan**

- 26.8.1.1** The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;
- 26.8.1.2** The names, approximate location, and widths of adjacent streets;
- 26.8.1.3** Existing topography at 2-foot contour intervals.
- 26.8.1.4** All on-site local, state, and federal regulatory resource boundaries and buffer zones shall be clearly identified, and all wetland flag locations shall be numbered and placed upon the Existing Conditions Plan.
- 26.8.1.5** If available, the location and results of any test pit investigations for soil profiles, percolation rates and determination of seasonal high ground water levels.
- 26.8.1.6** A description of any Site Assessment activities that have taken place on contaminated sites and a summary of those findings and activities.

**26.8.2 Concept Plan and Related Information**

- 26.8.2.1** The name and address of the record owner or owners, the applicant, and the design engineer and/or land surveyor that prepared the plan;
- 26.8.2.2** Identification of buildings to be removed;
- 26.8.2.3** Proposed uses including the density or intensity of the proposed use;
- 26.8.2.4** Proposed internal and external traffic and circulation patterns;
- 26.8.2.5** Proposed parking needs, including provisions for shared parking between uses, if applicable;
- 26.8.2.6** Proposed location and, where applicable, sizing of utilities including water supply, sewer, electrical and communications service, stormwater, and solid waste containment and disposal;
- 26.8.2.7** Proposed landscaping, lighting and signage features;
- 26.8.2.8** A narrative description of items 2 through 7 in the Concept Plan;
- 26.8.2.9** Architectural elevations for proposed new buildings; and
- 26.8.2.10** Where more than 20,000 square feet of new development or redevelopment is proposed, a traffic study showing the impact of the proposed development on the surrounding area shall be provided. The traffic study shall include existing and expected volumes at build-out, the expected directional distribution of vehicles to and from the site, and existing and expected levels of service at all intersections located within 3,000 feet of the site.
- 26.8.3** The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance. To the extent permitted by law, in an effort to avoid duplicative hearing processes, the Planning Board may combine the public hearings required for any application for a Special Permit within the MU2 District with the public hearing required for approval of a definitive subdivision plan.
- 26.9** Procedure
- 26.9.1** For any proposed project greater than twenty (20) acres in size, an informational meeting with the City Council shall be scheduled prior to the filing of an application with the Planning Board for Site Plan Approval and/or a Special Permit as described in Section 7 herein.
- 26.9.2** Whenever an application for a Special Permit is filed with the Planning Board pursuant to the requirements of this district, the applicant shall also file, within five (5) working days of the filing of the completed application, copies of the application, accompanying development plan and other documentation to the Conservation Commission (if applicable), Director of Inspections, Department of Public Works, Police Chief, and Fire Chief for their consideration, review, and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be

submitted to the Planning Board within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

26.9.3 The Planning Board may conduct a site visit during the public hearing. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or its agents.

26.10 Decision Criteria for the Planning Board

The Planning Board may approve, approve with conditions or deny an application for a Special Permit within the MU2 District. The criteria for this decision are as follows:

26.10.1 The degree to which the proposed development furthers the purposes of this Ordinance as listed in **Section 22-26.1**;

26.10.2 Compliance with the Parking Requirements listed in **Article \_\_ Section \_\_**;

26.10.3 Compliance with the Design Standards in **Section 22-26.6**; and

26.10.4 The ability of the neighborhood to absorb the level of traffic that will result from the proposed development.

*Section 22-27. Downtown Overlay District*

27.1 Purpose of Downtown Overlay District

27.1.1 Encourage a diverse mix of business, commercial, office, residential, and institutional uses for workers, visitors, and residents.

27.1.2 Limit and discourage development of highway-oriented strip retail uses that create traffic hazards and congestion because they require numerous individual curb cuts and generally higher traffic volumes.

27.1.3 Encourage pedestrian-friendly environment and pedestrian-oriented commercial enterprises and consumer services that do not rely on automobile traffic to bring consumers into the area.

27.1.4 Minimize visual and functional conflicts between residential and nonresidential uses within and abutting the district.

27.1.5 Encourage mixed uses within the same structure.

- 27.1.6 Encourage consolidation of curb cuts and promote more efficient parking.
- 27.1.7 Promote pedestrian and bicycle circulation and safety.
- 27.1.8 Encourage uses that minimize noise and congestion.
- 27.1.9 Encourage live/work or work/live space.
- 27.1.10 Encourage first floor retail space.
- 27.1.11 Allow for an appropriate mix and density of land uses to encourage people to live, work, and shop in order to support a vibrant downtown.
- 27.2 Site Plan Approval
  - 27.2.1 **Applicability.** This section supplements the site plan approval requirements set forth in **Section \_\_\_\_** and applies only to the Downtown Overlay District (DOD) and uses that meet the thresholds set forth below in **Section 22-27.2**. The provisions of MU-1 (see **Section \_\_\_\_**) do not apply to Industrial zoned land within the DOD.
  - 27.2.2 **Thresholds.** All buildings including residential uses with three (3) or more dwelling units, mixed use projects and non-residential uses located within the DOD. This includes all new construction; changes in use; or a significant alteration of the existing building facades; an increase of floor area of at least 2,500 square feet; or significant change to an existing accessory structure; or any activity requiring a new curb cut.
  - 27.2.3 **Standards and Requirements for DOD Site Plan Approval.** The applicant shall be required to demonstrate to the Planning Board, that the project meets the standards and requirements set forth below (**Subsections 22-27.4 through 22-27.9**).
- 27.3 **Redevelopment of Residential Properties within the DOD**

Properties currently used for residential purposes may be improved in accordance with the provisions of this Section provided that the lot is at least 5,000 square ft. in size with a minimum frontage of fifty (50) feet and eight (8) foot setbacks for the side and rear yards.
- 27.4 **Parking**
  - 27.4.1 **Parking lots shall be located to the side and/or rear of the principal use unless no other location is feasible. Parking is prohibited in the front of the building. Parking lots that abut public rights of way or parking under the building shall be screened with one or a combination of the following:**
    - 27.4.1.1 **A low wall made of concrete, masonry or other suitable material not exceeding a height of 3 feet.**
    - 27.4.1.2 **Raised planters planted with a minimum of 80% evergreen shrubs not to exceed a total height of 4 feet (including planter).**

- 27.4.1.3 Landscaping consisting of a mix of trees and shrubs provided that 80% of the shrub plantings are evergreen.

See **Section 22-27.7B** below for landscaping requirements for the interior of the parking lots.

- 27.4.2 Walls, fencing and architectural details shall compliment the materials of adjacent architectural styles.

- 27.4.3 Where walls are provided, planting areas shall be a minimum width of 4 feet and should be located adjacent to the public right of way.

- 27.4.4 Where possible, parking areas shall be interconnected in a manner that allows the unobstructed flow of pedestrians between uses and parking areas.

- 27.4.5 In large parking lots (20 or more spaces) bicycle racks shall be provided in locations that are safely segregated from automobile traffic and parking.

- 27.4.6 Shared parking – **See Article** \_\_\_ of this Ordinance.

## 27.5 Vehicular Access (Curb Cuts)

- 27.5.1 Curb cuts shall be limited to one for a project unless the Planning Board determines that an additional cut is warranted because the applicant has demonstrated that traffic flow in and out of the project site would be enhanced with an additional curb cut. To the maximum extent feasible, access to Business uses as listed in Use Table shall be provided through one of the following methods:

- 27.5.1.1 Vehicular access from a public alley is preferred over vehicular access from a primary street.

- 27.5.1.2 Common drives serving one or more adjacent properties are encouraged with Planning Board approval when demonstrated that a shared driveway provides more efficient and safe site access than two curb cuts.

- 27.5.1.3 Curb cuts within 200 feet of an intersection are discouraged and are only allowed if there is no other location to provide parking.

## 27.6 Pedestrian and Bicycle Access

There shall be safe and convenient pedestrian access. Safe and convenient access might include connections between pedestrian and/or bicycle paths and abutting areas. When parking is located in the rear, pedestrian access via a pedestrian-oriented alley or walkway through to the primary street is encouraged. Any new or redeveloped buildings shall provide bicycle racks for at least three bicycles unless waived by the Planning Board because of the existence of bicycle racks within 100 feet of the side lot lines of the new or redeveloped building.



## **27.7 Landscaping**

Landscaping shall create visual relief and interest, provide shade for pedestrian areas, screen parking and loading areas, and shall meet the requirements set forth in Subsection A through C below. Landscape plans shall be prepared by a registered landscape architect and shall show the location, type, and size of all proposed plantings and the surrounding area.

### **27.7.1 Side Yard Treatment**

- 27.7.1.1** Where the distance between structures on adjacent lots is 10 feet or less the side yard shall be screened by a solid fence, wall or landscape treatment of evergreen plantings at a height not to exceed 3 feet.
- 27.7.1.2** Where the distance between structures on adjacent lots is greater than 10 feet landscaping shall consist of a combination of materials sufficient to break up the view into the side yard but, for safety reasons, in no case should this planting be impermeable.
- 27.7.1.3** Side yards may, in the alternative, be established as pedestrian walkways to access parking areas to the rear of the building. Such walkways shall be landscaped and lighted for safety.

### **27.7.2 Parking Areas**

- 27.7.1** Large parking areas shall be relieved by landscaped islands of a minimum of 8 feet in width, equal in depth to the depth of a typical parking space and located such that there is one island per 10 continuous spaces.
- 27.7.2** Alternatively, at least 5% of the interior area of the lot shall be devoted to landscaping. Areas described in the above shall have at a minimum one shade tree with a minimum caliper of 2 ½ inches diameter breast height (DBH). Trees planted in such locations shall be planted in protected pervious areas which have a minimum dimension of 5 feet.
- 27.7.3** Where lots abut public rights of way, shade trees with a minimum caliper DBH of 2 ½ inches, shall be provided within a planting strip no less than 4 feet in width and at a rate of one tree per every 6 continuous spaces.
- 27.7.3 Trash and Service Areas**
  - 27.7.3.1** All service, loading and trash storage areas viewable from a public right of way or from an adjacent residential area shall be screened by one or a combination of masonry, wood or evergreen plantings to reduce their visual impact.
  - 27.7.3.2** Loading and service areas shall not face any residential area unless no other location is possible.
  - 27.7.3.3** Garage doors and loading spaces are prohibited on the front façade of any building unless no other location is feasible. Loading areas shall be screened as set forth in **Subsection 22-27.7.3.1** above.

**27.8 Mixed Use Development**

The ground floor of a mixed use development (any combination of business, retail, office, and residential) shall be occupied by pedestrian-oriented non-residential uses only.

**27.9 Incentives**

**27.9.1 Purpose.** These incentive zoning regulations are intended to implement the following objectives:

**27.9.1.1 Protect existing development rights.** A property owner may develop property under the existing zoning district regulations. These incentive regulations do not change the existing zoning and development requirements, and nothing in this document shall serve to reduce such requirements. This section provides additional development flexibility that may apply at the discretion of the property owner if approved by the special permit granting authority.

**27.9.1.2 Provide for optimal mixes of uses.** To provide for and encourage optimal mixes of land uses, including combining appropriate and complimentary uses on a single lot and/or within a single building.

**27.9.1.3 Provide regulatory relief.** To reduce, minimize, or waive altogether certain requirements of the Ordinance that may serve as disincentives to development and redevelopment, when the spirit, intent, and public purposes of such requirements can be achieved through alternative means.

**27.9.2 Height.** To accomplish the purposes of this Section, the special permit granting authority is authorized to grant a Special Permit to allow an increase in the height of structures either in existence, as reconstructed, or as new construction, so that the total height does not exceed seventy-five (75) feet or six (6) stories within this zoning district. If any construction of a structure increases the intensity of use over what was previously in existence on the lot, the special permit granting authority shall allow this increase only upon a finding that the additional height is consistent with the scale of adjacent structures. The special permit granting authority must further find that the increase will not interfere or negatively impact abutting properties, particularly property used or zoned for single-family residential purposes.

**27.9.3 Procedure.** Preliminary meetings, prior to submitting an application, with Planning staff are required when considering a zoning incentive pursuant to this Section. This meeting will seek to introduce the project to Planning staff, so they can anticipate any potential issues and recommend appropriate modifications.

**27.9.4 Incentives.** The following incentives are provided pursuant to a discretionary special permit review as described in **Section 27.9.4** of this Ordinance and are not allowed by right.

PROVISION		INCENTIVE
1. Live/work uses	in exchange for	1. Density Bonus

When providing 4 or more live/work units in one building, the proponent is entitled to the stated increase in allowable height.		Height may be increased by 1 story (no more than 12 feet).
<b>2. Affordable housing</b>  When more than 20% of the total number of dwelling units are made available for people whose income is at 80% of the area median income or less.	in exchange for	<b>2. Density Bonus</b>  Height may be increased by 1 story (no more than 12 feet).

#### **27.9.5 Criteria for Review/Approval**

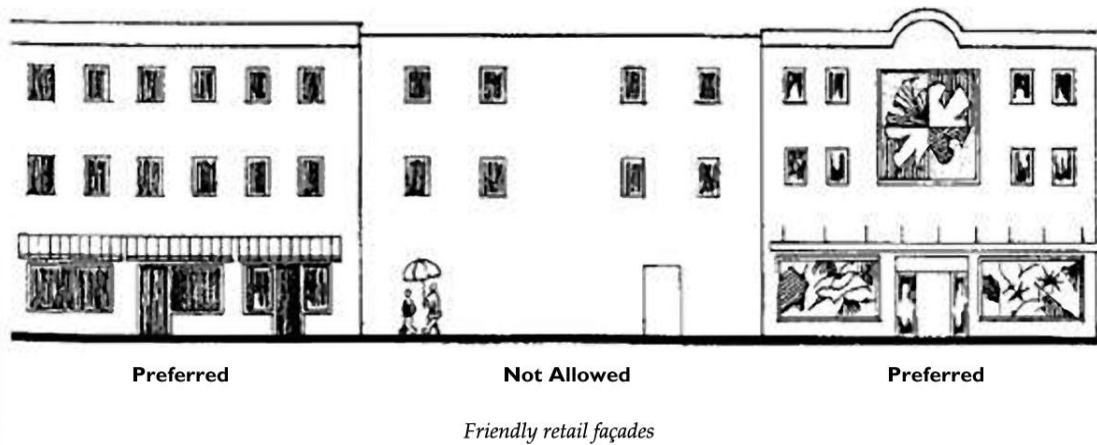
- 27.9.5.1** Only home office type business uses shall be allowed in a live/work building. No hazardous industrial activities shall be permitted. The business does not create a nuisance to others in the area by reason of noise, odors, vibration, unsightly conditions, significantly increased traffic, improper disposal of wastes, or other reason.
- 27.9.5.2** The principal operator of the business shall be a resident of the property with no more than two outside employees allowed.
- 27.9.5.3** Not more than 50% of the total floor area of the buildings may be used for the residence.
- 27.9.5.4** The hours of operation for the business will be normal business hours.

#### **27.10 Design Regulations**

- 27.10.1** Orientation. Buildings shall be oriented parallel to the front setback line to preserve a consistent façade line with the street. Primary building entrances should easily identified and be oriented to the street. The primary entry should be clearly visible from the public street which provides the building's main orientation.
- 27.10.2** Articulation. New and redeveloped buildings should reinforce the character of the existing streetscape by creating visual interest and reinforcing pedestrian scale. The apparent bulk and large wall expanses of multi-story buildings as well as single story buildings of 15' height or more should be minimized by incorporating one or preferably a combination of the following:
- 1. Windows**
  - 2. Architectural Details**
  - 3. Canopies**
  - 4. Overhangs**
  - 5. Indented Bays**
  - 6. Change of Building Materials**

The top of such buildings should display a distinct profile or outline incorporating such elements as a projecting parapet, cornice, upper level setback or pitched roofline. When immediately adjacent a building with such articulation, new and redeveloped buildings should provide a treatment that is respectful, such as providing a consistent cornice line where possible.

Large expanses of blank walls are prohibited for commercial and mixed use developments.



- 27.10.3 **Transparency.** For commercial and mixed- use buildings, a minimum of 60% of the building façade oriented to the street must be comprised of clear windows that provide views to indoor retail space, dining space or product areas when applicable. Where parking occupies the ground floor the same solid to void ratio must be achieved utilizing techniques such as half-walls, grillwork, or landscaped trelliswork or their equal.
- 27.10.4 **Doors and Entrances.**
- 27.10.4.1 **Buildings must have a primary entrance facing a public street or way and should be visually prominent.**
- 27.10.4.2 **In buildings with multiple ground floor tenants entries should provide a coordinated design theme i.e. a common canopy, architectural projection or awning design.**
- 27.10.5 **Pedestrian Spaces and Comfort.** For the purpose of providing a pedestrian friendly environment in the Downtown Overlay District, new and redeveloped buildings should provide for outdoor seating areas, scaled to the size and demands of the proposed use, where feasible. For example, a large, multi-story project should provide a patio or small plaza area located near the front entry with multiple benches and landscaping. A mixed use development with ground floor retail such as a restaurant may provide an area for outdoor dining which extends the indoor dining space for seasonal use. A ground floor use may provide a sidewalk bench where there is sufficient width.

Such pedestrian areas are best located when they take advantage of southern exposure and provide space that affords visual connectivity but is setback from major pedestrian flow and vehicular ways and is appropriate to the location.

Outdoor sales and display areas should be well organized and located such as not to impede pedestrian circulation if located on a public walk or way.

The following guidelines should be considered in the design and location of pedestrian spaces:

1. Flexible design to allow for flexible use
2. Buffering from major vehicular areas such as parking lots or main traffic ways
3. Lighting for nighttime comfort and safety
4. Appropriate street furnishing...i.e. benches, trash receptacles
5. A focal element where appropriate such as a water feature, special landscape feature or public art installation
6. Decorative paving and seasonal planting
7. South facing locations
8. Visual connectivity, especially to important views such as an historic structure
9. Appropriately scaled to the development

27.10.6 **Utilities.** Underground utilities for new and redeveloped building are required unless physically restricted or blocked by existing underground obstructions.

27.10.7 **Lighting.** Site lighting, security lighting and architectural/landscape lighting should provide the user with illumination levels appropriate for the designed activity (i.e. parking, walking, outdoor dining) while meeting minimum requirements. Illumination levels should also be reasonably uniform throughout the site and strive to minimize glare.

Provide adequate lighting levels in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. Provide the following in lighting plans:

1. An overlapping pattern of light at a height of about 10–15 feet in lighted areas within pedestrian walkways and 20 – 24 feet in parking areas.



**DON'T**



**DO**

2. Lighting at consistent lumens with a gradual transition to unlighted areas. Highly contrasting pools of light and dark can be temporarily blinding and should be avoided.
3. In each lighted area, design lighting levels that will allow pedestrians to identify a face 15 yards away (generally, a minimum of 4 foot-candles). Adequate lighting reduces anonymity and gives pedestrians an opportunity to choose another route.
4. Adequate lighting at all building entrances, exits and corridors between buildings, at least 4 foot candles during active use, especially where doors are recessed.
5. Confine site lighting to the project site; use shields or other methods to eliminate glare on adjacent properties.
6. Place light posts and standards so that they do not create hazards for pedestrians or vehicles.



7. Indicate specific lighting levels in each lighted area.

27.10.8 **Quality of site furnishings. Provide for the following site plan elements:**

1. High-quality materials in site furnishings and features, such as durable and easily maintained walls and paving.
2. Site features and furnishings that discourage vandalism. Furnishings that are easily removed or do not convey an image of care invite misuse.
3. Safety materials, such as non-slip walkway surfaces.

27.10.9 **Signs**

1. Signs that project from the building are to be designed in such a way that they are compatible with the nature of downtown Leominster (e.g. wooden “antique-style” signs). These projecting signs must have mounting hardware approved by the Director of Inspections.
2. Sign materials in the Downtown Overlay District for hanging signs: Traditional-looking materials such as wood, brass, bronze, or others are to be used, as they are most appropriate. Wooden signs should be constructed of dense wood that will accept paint readily.
3. Signs shall be externally lit from the front. Back lighting of signs shall not be used.
4. Neon, flashing signs, moving signs and roof signs shall not be used.

### ***Section 22-28. Mechanic Street Overlay District***

28.1 **Purpose**

The purpose of this section is to establish an overlay district to address the unique characteristics of properties along the Mechanic Street Corridor within the City of Leominster. This corridor has development patterns and aesthetic characteristics that require the establishment of additional development standards to meet the goals of enhancing business maintenance and growth while preserving the integrity of the adjacent residential neighborhoods. The intent of the Mechanic Street Overlay District (MSOD) is to promote revitalization, reduce conflict caused by incompatible development, and promote development along Mechanic Street that is aesthetically consistent and responsive to development pressures and recognizes the nature of the adjacent residential areas.

28.2 **Establishment**

The MSOD is hereby established and consists of those areas shown on the City of Leominster Zoning Map on file with the City Clerk and dated \_\_\_\_.

### **28.3 General Provisions**

**28.3.1** The boundaries of the MSOD district include any property located one lot deep along the right-of-way lines of Mechanic Street, extending from Whitney Street to Commercial Road.

**28.3.2** For any parcel that is developed within the MSOD District, these regulations shall apply. For any parcel that is redeveloped or any structure that is remodeled, only those regulations applicable to the redevelopment or remodeling shall apply.

### **28.4 Authority and Applicability**

**28.4.1** The Planning Board shall act as the administering authority for any Site Plan Approval procedure associated with this Ordinance (See Article \_\_ Section \_\_). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in this district.

**28.4.2** The provisions of this Article shall not apply to the completion of work for projects approved prior to the effective date of this Article.

**28.4.3** The provisions of this Article shall apply to any new project, change of use, or any redevelopment project that alters the appearance of the exterior of the building or lot.

**28.4.4** The redevelopment to convert a single-family dwelling into a two-family dwelling, or a two-family dwelling into a three-family dwelling shall be allowed by right if the lot is at least 5,000 square ft. in size.

### **28.5 Landscaping and Buffers**

In order to provide an enhanced aesthetic appearance for the major corridors of the City, properties within the MSOD shall be landscaped in accordance with Article \_\_ of this Ordinance.

**28.5.1** A landscape plan shall be required to be submitted as part of any Building Permit or Special Permit application. Paving of lots in its entirety shall be prohibited. Such plan shall indicate how such development complies with the regulations Article \_\_.

**28.5.1.1** Landscape plans shall include at least the location, species/common name, and size of any proposed landscaping that is required by this Section.

**28.5.1.2** Within the required front yard, landscaping shall be provided. Such landscaping shall, at a minimum, consist of two (2) deciduous shade, ornamental or evergreen trees and ten (10) shrubs per one hundred (100) linear feet of frontage.

**28.5.2** Where a commercial property abuts a residential property, a landscaped buffer area shall be provided to minimize the visual effect and glare onto the residential properties.

**28.5.2.1** A buffer area minimum fifteen (15) feet wide shall be provided along the property line that abuts the residential structure. However, for any property on which the use structure

exceeds 20,000 gross square feet in area, a buffer area shall be increased to a minimum of twenty-five (25) feet in width.

- 28.5.2.2 Landscaping shall be provided at the rate of at least three (3) deciduous shade trees and ten (10) shrubs per one hundred (100) linear feet of buffer.
- 28.5.2.3 For buffer areas of a required minimum width of 25 feet, there shall be additional landscaping consisting of six (6) evergreen trees per one hundred (100) feet.
- 28.5.3 For commercial properties, a landscape buffer of a minimum 10 feet in width from the property line shall be provided alongside and rear lot lines not adjacent to residential districts. Within such buffer, a minimum of two (2) deciduous shade trees shall be planted per 100 linear feet of length.
- 28.5.4 In order to create a unique aesthetic appearance for the City, free-standing signs shall be landscaped with flowers and other plants around the base of the sign.
- 28.5.5 The standards for tree and shrub size found in **Article \_\_\_\_** of this Ordinance shall apply.
- 28.5.6 When feasible, existing vegetation shall be preserved. Preserved vegetation may be substituted for required new vegetation. The landscape plan shall include provision for protection of preserved vegetation during development.
- 28.5.7 Required plantings shall be maintained during the course of construction and thereafter. Should the vegetation fail to survive, new vegetation shall be installed in accordance with the requirements of this section.
- 28.6 Off-Street Loading Area And Dumpster Screening
  - 28.6.1 No off-street loading areas may be located on the sides of buildings fronting onto Mechanic Street.
  - 28.6.2 No dumpsters may be located on the sides of buildings fronting onto Mechanic Street, except if in the opinion of the Planning Board no other suitable location is reasonably available for such purpose, and provided the dumpster area is developed in a manner so as to minimize its appearance from Mechanic Street.
  - 28.6.3 All dumpsters shall be entirely screened by a masonry or solid wooden fence, with gate, or a comparable screening at least six (6) feet in height.
- 28.7 Parking
  - 28.7.1 The parking regulations found in **Article \_\_\_\_** shall apply to all land uses in the MSOD.
  - 28.7.2 No parking shall be permitted within the front yard setback of any lot. Off-street parking shall be to the rear of the building to the maximum extent possible.
- 28.8 Dimensional Regulations



**Buildings and structures shall be subject to regulations for lot area, lot width, street frontage, setback, height, yards, maximum or minimum building square footage applicable in the underlying zoning district in which located.**

**28.9 Design Regulations**

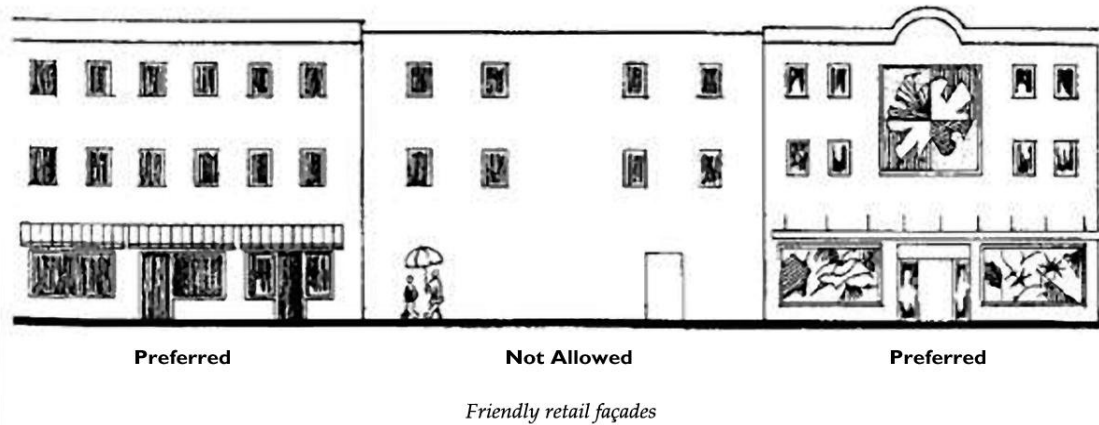
**28.9.1 Orientation.** Buildings shall be oriented parallel to the front setback line to preserve a consistent façade line with the street. Primary building entrances should easily identified and be oriented to the street. The primary entry should be clearly visible from the public street which provides the building's main orientation.

**28.9.2 Articulation.** New and redeveloped buildings should reinforce the character of the existing streetscape by creating visual interest and reinforcing pedestrian scale. The apparent bulk and large wall expanses of multi-story buildings as well as single story buildings of 15' height or more should be minimized by incorporating one or preferably a combination of the following:

- 1. Windows**
- 2. Architectural Details**
- 3. Canopies**
- 4. Overhangs**
- 5. Indented Bays**
- 6. Change of Building Materials**

**The top of such buildings should display a distinct profile or outline incorporating such elements as a projecting parapet, cornice, upper level setback or pitched roofline. When immediately adjacent a building with such articulation, new and redeveloped buildings should provide a treatment that is respectful, such as providing a consistent cornice line where possible.**

**Large expanses of blank walls are prohibited for commercial and mixed use developments.**



28.9.3 **Transparency.** For commercial and mixed-use buildings, a minimum of 60% of the building façade oriented to the street must be comprised of clear windows that provide views to indoor retail space, dining space or product areas when applicable. Where parking occupies the ground floor the same solid to void ratio must be achieved utilizing techniques such as half-walls, grillwork, or landscaped trelliswork or their equal.

28.9.4 **Doors and Entrances.**

1. Buildings must have a primary entrance facing a public street or way and should be visually prominent.
2. In buildings with multiple ground floor tenants entries should provide a coordinated design theme i.e. a common canopy, architectural projection or awning design.

28.9.5 **Pedestrian Spaces and Comfort.** For the purpose of providing a pedestrian friendly environment in the MSOD, new and redeveloped buildings should provide for outdoor seating areas, scaled to the size and demands of the proposed use, where feasible. For example, a large, multi-story project should provide a patio or small plaza area located near the front entry with multiple benches and landscaping. A mixed use development with ground floor retail such as a restaurant may provide an area for outdoor dining which extends the indoor dining space for seasonal use. A ground floor use may provide a sidewalk bench where there is sufficient width.

Such pedestrian areas are best located when they take advantage of southern exposure and provide space that affords visual connectivity but is setback from major pedestrian flow and vehicular ways and is appropriate to the location.

Outdoor sales and display areas should be well organized and located such as not to impede pedestrian circulation if located on a public walk or way.

The following guidelines should be considered in the design and location of pedestrian spaces:

2. Flexible design to allow for flexible use
3. Buffering from major vehicular areas such as parking lots or main traffic ways

4. Lighting for nighttime comfort and safety
5. Appropriate street furnishing...i.e. benches, trash receptacles
6. A focal element where appropriate such as a water feature, special landscape feature or public art installation
7. Decorative paving and seasonal planting
8. South facing locations
9. Visual connectivity, especially to important views such as an historic structure
10. Appropriately scaled to the development

28.9.6 **Utilities.** Underground utilities for new and redeveloped building are required unless physically restricted or blocked by existing underground obstructions.

28.9.7 **Lighting.** Site lighting, security lighting and architectural/landscape lighting should provide the user with illumination levels appropriate for the designed activity (i.e. parking, walking, outdoor dining) while meeting minimum requirements. Illumination levels should also be reasonably uniform throughout the site and strive to minimize glare.

Provide adequate lighting levels in all pedestrian areas, including building entries, along walkways, parking areas, and other public areas. Provide the following in lighting plans:

1. An overlapping pattern of light at a height of about 10–15 feet in lighted areas within pedestrian walkways and 20 – 24 feet in parking areas.



DO



DON'T

2. Lighting at consistent lumens with a gradual transition to unlighted areas. Highly contrasting pools of light and dark can be temporarily blinding and should be avoided.
3. In each lighted area, design lighting levels that will allow pedestrians to identify a face 15 yards away (generally, a minimum of 4 foot-candles). Adequate lighting reduces anonymity and gives pedestrians an opportunity to choose another route.
4. Adequate lighting at all building entrances, exits and corridors between buildings, at least 4 foot candles during active use, especially where doors are recessed.
5. Confine site lighting to the project site; use shields or other methods to eliminate glare on adjacent properties.



6. Place light posts and standards so that they do not create hazards for pedestrians or vehicles.
  7. Indicate specific lighting levels in each lighted area.
- 28.9.8 Quality of site furnishings. Provide for the following site plan elements:
- 28.10.1 High-quality materials in site furnishings and features, such as durable and easily maintained walls and paving.
- 28.10.2 Site features and furnishings that discourage vandalism. Furnishings that are easily removed or do not convey an image of care invite misuse.
- 28.10.3 Safety materials, such as non-slip walkway surfaces.
- 28.9.9 Signs
1. Sign materials in the MSOD for hanging signs: Traditional-looking materials such as wood, brass, bronze, or others are to be used, as they are most appropriate. Wooden signs should be constructed of dense wood that will accept paint readily.
  2. Signs that project from the building shall use the same materials listed above for hanging signs. These projecting signs must have mounting hardware approved by the Director of Inspections.
  3. Signs shall be externally lit from the front. Back lighting of signs shall not be used.
  4. Neon, flashing signs, moving signs and roof signs shall not be used.
- 28.10 Exceptions
- 29.3.1 Improvements and additions that are made to a single-family residence previously permitted and built on a lot of record prior to enactment of this Article.
- 29.3.2 Construction of a single-family dwelling on an existing lot of record approved prior to enactment of this Article, provided that the new construction shall be of a similar floor area, materials and design as the single-family dwellings on adjacent lots.
- 29.3.3 Construction, rehabilitation, restoration, repair of a non-residential structure, interior renovations or interior finishes within an existing structure, or addition to an existing non-residential structure that was permitted prior to the enactment of this Article, provided that such construction is on a lot of record and does not affect a change to more than twenty percent (20%) of the existing permitted structure or 2,500 square feet, whichever is less.
- 29.3.4 The Planning Board may waive certain provisions of this Article if the applicant can demonstrate that compliance with said provisions is not feasible because of the size or dimensions of the lot.

## *Section 22-29. Merriam and West Street Overlay District*

### **29.1 Purpose**

The purpose of this section is to establish an overlay district to address the unique characteristics of properties along the Merriam and West Street Corridors within the City of Leominster. The intent of the Merriam and West Street Overlay District (M/WOD) is to encourage the creation of small business opportunities and allow conversions of residential properties to small businesses where compatible with residential nature of the district, particularly since it is adjacent to the Downtown Overlay District.

### **29.2 Establishment**

The M/WOD is hereby established and consists of those areas shown on the City of Leominster Zoning Map on file with the City Clerk **and dated \_\_\_\_\_**.

### **29.3 General Provisions**

29.3.1 The boundaries of the M/WOD include any property located one lot deep along the right-of-way lines of Merriam Street, extending from Blossom Street to Church Street, and along the right-of-way lines of West Street from Blossom Street to Cotton Street.

29.3.2 For any parcel that is developed within the M/WOD, these regulations shall apply. For any parcel that is redeveloped or any structure that is remodeled, only those regulations applicable to the redevelopment or remodeling shall apply.

### **29.4 Authority**

29.4.1 The Planning Board shall act as the administering authority for any Site Plan Approval procedure associated with this Ordinance (**See Article \_\_ Section \_\_**). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in this district.

29.4.2 The provisions of this Article shall not apply to the completion of work subject to projects approved prior to the effective date of this Article.

### **29.5 Conversions of Residential to Commercial Uses**

Within the M/WOD, residential uses may be converted to commercial uses in accordance with the Table of Uses (**see Section \_\_\_\_ of this Ordinance**). Where such a conversion is allowed by right with Site Plan Approval, the application requirements and decision-making criteria for Site Plan Approval shall apply (**see Section \_\_\_\_ of this Ordinance**).

### **29.6 Buffers**

Where a conversion occurs from a residential to commercial use, a buffer shall be established if the new commercial use is adjacent to a residential use. Such a buffer

shall be landscaped with trees and/or shrubs and shall be a minimum of ten feet (10') in width from the property line along side and rear lot lines. When feasible, existing vegetation shall be preserved. Required plantings shall be maintained during the course of construction and thereafter. Should the vegetation fail to survive, new vegetation shall be installed.

## **29.7 Parking**

The parking requirements of Article \_\_\_\_ of this Ordinance shall apply for the new commercial use. Where feasible, a shared parking arrangement may be considered in accordance with Section \_\_\_\_\_. Parking areas shall be landscaped and screened in accordance with Section \_\_\_\_\_. No parking shall be permitted within the front yard setback of any lot.

### *Section 22-30. Village District*

## **30.1 Purpose**

The purposes of the Village District are to:

- 30.4.1 Encourage redevelopment of abandoned, vacant or underutilized buildings or structures where appropriate;
- 30.4.2 Allow for a mixed use structures with retail, office, and multi-family residential uses that are appropriate to both the needs of the community and the scale of surrounding neighborhoods;
- 30.4.3 Provide incentives to develop parcels at higher densities and in a coordinated, planned approach;
- 30.4.4 Maintain a consistently high level of design quality throughout the district.

## **30.2 Establishment**

The Village District is hereby established and consists of those areas shown on the City of Leominster Zoning Map on file with the City Clerk and dated \_\_\_\_\_.

## **30.3 Authority**

The Planning Board shall act as the administering authority for any Site Plan Approval procedure associated with this Ordinance (See Article \_\_ Section \_\_\_\_). The Planning Board shall also serve as the Special Permit Granting Authority for any use that requires a Special Permit in this district.

## **30.4 Dimensional Requirements**

- 30.4.1 Rear and side yard setbacks for residential or mixed use buildings shall be at least fifty (50) feet and shall be subject to the site design standards in Section 5 below.

30.4.2 Building height for residential or mixed use shall not exceed fifty (50) feet and no building shall have more than four (4) stories.

## **30.5 Design Standards**

The Design Standards in this section shall be applied to development within the Village District where applicable.

### **30.5.1 Buildings**

30.5.1.1 All buildings shall have a principal façade and entry (with operable doors) facing a street or open space. Buildings may have more than one principal façade and/or entry;

30.5.1.2 Building finish materials shall be appropriate to traditional New England architecture and may include, but shall not be limited to brick or high-quality brick face, wood, stone or high-quality stone-face. Vinyl, unfinished metal or fiberglass as a primary finished surface shall not be used;

30.5.1.3 Blank walls adjacent to streets, alleys or open spaces shall not be permitted. Where windows are not possible, vertical articulation in the form of raised or recessed surfaces shall be used to break up blank walls;

30.5.1.4 New retail uses shall be located on the first floor and shall have one of the following features along the front surface at intervals sufficient to provide continuity to pedestrians: awning, marquee, arcade and/or colonnade;

30.5.1.5 Flat roofs may be allowed on multi-story buildings as long as the roofline projects outward from the building surface as a decorative cornice or parapet; and

30.5.1.6 Larger buildings with multiple non-residential tenants on the first floor shall articulate the façade in a manner that distinguishes the location of these tenants through the use of decorative raised or depressed vertical surfaces, variations in acceptable signage, awnings, marquees, colonnades or arcades.

### **30.5.2 Signs**

30.5.2.1 Primary signs shall be flat against the façade, or mounted projecting from the façade;

30.5.2.2 Signs that project from buildings shall have at least ten (10) feet of clearance from the ground level;

30.5.2.3 Signs shall be externally lit from the front. Back lighting of signs shall not be used;

30.5.2.4 Neon, flashing signs, moving signs and roof signs shall not be used;

30.5.2.5 Temporary signs with a specific date of expiration, such as sandwich boards, shall be allowed, after approval by the Director of Inspections;

- 30.5.2.6** Signs shall be made of attractive materials consistent with the character of the district. Materials may include wood (painted or natural), stone, copper, brass, galvanized steel, painted canvas or paint/engraved on façade surface;
- 30.5.2.7** Signs may only be incorporated into the skirt of awnings and not on the primary angled surface.
- 30.5.2.8** Freestanding directory signs may be permitted where several non-residential operations are accessed through a common vehicular entrance. Such freestanding signs shall not exceed eight (8) feet in height, six (6) feet in width and each tenant shall be allowed a maximum of four and a half (4.5) square feet to display the company or agency name.
- 30.5.3** Site Design
- 30.5.3.1** Parking areas shall be located in the rear of buildings;
- 30.5.3.2** Street level frontage shall be devoted to entrances, shop windows or other displays;
- 30.5.3.3** Clear pedestrian pathways shall be provided between buildings on the same lot and between buildings on adjacent lots to ensure a continuous pedestrian pathway throughout the district;
- Buildings shall be arranged in a manner that optimizes the ability of residents and consumers to access public spaces and pedestrian amenities.
  - Buildings shall be oriented toward each other in a way that minimizes conflicts between pedestrians and automobiles.
- 30.5.3.4** Where residential buildings abut commercial, office or mixed use developments, appropriate transitional features shall be used and may include landscaping, open space or parks, or streets with clearly designed pedestrian features;
- 30.5.3.5** Primary entrances to proposed and existing buildings are situated on pedestrian amenities (e.g., sidewalks, plazas or open space) with a minimum width of 10 feet;
- 30.5.3.6** Newly constructed building façades for non-residential use shall have a transparency of at least sixty percent (60%);
- 30.5.3.7** Setbacks are consistent with the fabric of the existing street and do not preclude pedestrian access;
- 30.5.3.8** Adequate access for loading and emergency vehicles is maintained on one side of the building; and
- 30.5.3.9** Adequate natural lighting and air circulation for businesses and residents is maintained.
- 30.5.3.10** Open space provided pursuant to this Section of this ordinance shall be designed as a public gathering place. Arcades, courtyards, parks, greens or other common areas shall be located in a manner that connects buildings to each other and to public sidewalks



without interruption from parking areas or automobile travel lanes to the greatest practicable extent.

**30.5.3.11 Features that may be used to create open space areas acceptable to the**

**30.5.3.12 Planning Board may include, without limitation, fixed benches, fixed tables, fountains, pathways, bikeways, bicycle racks, period lighting, shade trees, perennial gardens, picnic areas, and/or trash receptacles.**

- **As a condition of a Site Plan Approval, the Planning Board shall require an applicant to document ownership of open space within the proposed development and to provide a detailed maintenance schedule to ensure the long term care of open space areas.**

## **30.6 Village District Site Plan Approval**

**Any multi-family residential or mixed-use project proposed within the Village District shall be subject to site plan approval in conformance with Section \_\_\_ of this Ordinance. In addition, the following provisions shall apply:**

**30.6.1 To be eligible to apply for Site Plan Approval, the site must contain at least three (3) acres of contiguous buildable land.**

**30.6.2 An applicant for Site Plan Approval in the Village District shall restrict the development to the use classification that complies with the parameters listed below. The area of a particular use, other than public open space, shall be determined by dividing its Gross Floor Area (GFA) by the total GFA in the development. The Planning Board shall include continued compliance with the proposed use profile as a condition of any Site Plan Approval granted under this Section of the Ordinance.**

**30.6.2.1 The development area shall not contain any residential use on the ground floor;**

**30.6.2.2 The development area shall contain a minimum of fifty percent (50%), but not more than seventy-five percent (75%) residential use;**

**30.6.2.3 The proposed development area shall not contain more than fifty percent (50%) office use;**

**30.6.2.4 The proposed development area shall not contain more than fifty percent (50%) retail use; and**

**30.6.2.5 The proposed development area shall contain a minimum of five percent (5%) civic use and shall design at least ten percent (10%) of the site as open space accessible to the public.**

**30.6.3 Upon petition by an applicant for Site Plan Approval, the Planning Board may allow for maximum building heights to be sixty (60) feet or five (5) stories if at least twenty percent**

(20%) of the residential dwelling units are set aside as affordable housing or if at least twenty percent (20%) of the site as open space accessible to the public.

Applicants may increase the overall density of their project to meet these height limitation increases provided that the applicant complies with all other requirements of this ordinance including, without limitation, those for parking, design and other dimensional requirements.

**30.6.4 The Planning Board may approve an application for Site Plan Approval with pursuant to the following criteria:**

- **Proposed development is consistent with the purposes listed in Section 1 of this Article;**
- **All applicable standards for use, parking and dimensional requirements are met;**
- **All applicable design standards are met;**
- **Where multiple structures are proposed, the site design reflects a thoughtful arrangement of elements that will facilitate the movement of pedestrians between structures through the use of sidewalks, internal walkways, alleys or open space features;**
- **The applicant has provided adequate documentation to ensure that the use classification within the development shall permanently comply with those restrictions listed above; and**
- **The applicant has provided adequate documentation to ensure that the required open space within a proposed development shall be adequately and permanently maintained.**

### ***Section 22-31. Adult Entertainment Uses***

**31.1** **AUTHORITY:** This section is enacted pursuant to M.G.L. Chapter 40A and pursuant to the City's authority under the Home Rule Amendment to the Massachusetts Constitution to serve the compelling City interests of limiting the location of and preventing the clustering and concentration of certain adult entertainment uses, as defined and designated herein, in response to studies demonstrating their deleterious effects.

**31.2** **PURPOSE:** It is the purpose of this section to address and mitigate the secondary effects of the adult entertainment establishments and sexually oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of municipalities, adverse impacts on the property values of residential and commercial properties, and adverse impacts on the quality of life in municipalities. All of said secondary impacts are adverse to the health, safety and general welfare of the City of Leominster and its inhabitants. The provisions of this section have neither the purpose nor the intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials.

Similarly, it is not the purpose or intent of this section to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this section to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

- 31.3 ADULT ENTERTAINMENT USES BY SPECIAL PERMIT: The operation of any Adult Entertainment Use, as defined herein, shall require a Special Permit from the Leominster City Council. The applicant for a Special Permit is subject to the requirements of **Section 22-13**, Special Permits. Special Permits for Adult Entertainment Uses may be authorized in Commercial Districts only.
- 31.4 No Adult Entertainment Use Special Permit shall be issued to any person convicted of violating the provisions of M.G.L. c. 119, Sec. 63 or M.G.L. c.272, Sec. 28.
- 31.5 The operation of an Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore, and Adult Dance Club will not be situated within 1,000 feet of any establishment that serves or sells alcoholic beverages that are consumed on the premises or taken out.
- 31.6 An Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club will not be located within 1,000 feet of any other Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club.
- 31.7 In granting, a Special Permit, the City Council shall provide that an Adult Entertainment Use, Adult Paraphernalia Store, Adult Video Store, Adult Motion Picture Theater, Adult Cabaret, Adult Theater, Adult Bookstore and Adult Dance Club will not be located within 1,000 feet of the following:
- 31.7.1 A residential use or zoning district
  - 31.7.2 A structure or parcel used for educational or religious purposes
  - 31.7.3 A structure or parcel owned, operated or maintained by the Federal Government, the Commonwealth or the City for use by, or with activities open to, the general public, such as a library, park, playground or recreational area
  - 31.7.4 A structure or parcel used for a childcare facility
  - 31.7.5 A structure or parcel used for a hospital or medical clinic
  - 31.7.6 A structure or parcel used for a senior center, nursing home or assisted living facility
  - 31.7.7 A bus stop
  - 31.7.8 A cemetery
  - 31.7.9 An historic district or site

31.8 No Adult Entertainment Use shall be allowed to display for advertisement or other purposes any sign, placards or other like materials to the general public on the exterior of the building or on the interior where the same may be seen through glass or other like transparent material any sexually explicit figures or words as defined in M.G.L. c.272, Sec. 1. No Adult Entertainment Use shall have a freestanding accessory sign.

**NOTE: the Table of Uses below is new and replaces the one in the current ordinance.**

### ***Section 22-32. Table of Uses<sup>1</sup>***

The following Table of Uses summarizes the principal and accessory use regulations of this Ordinance. It is not inclusive for all regulations and must therefore be used in conjunction with any and all other appropriate sections of this Ordinance.

The following abbreviations are used in the Table to designate where a use is allowed by right, prohibited, or requires a permit:

Y Yes, allowed by right

SPPB Special Permit from Planning Board required

N No, not allowed

SPA Site Plan Approval required through Planning Board

**U Allowed in the underlying zoning district**

*(The following notes are not part of the Ordinance. They are intended only to assist the reader.)*

A recommended approach to using this Table is as follows:

- (1) Identify appropriate use in Table.
- (2) Identify appropriate district in Table based on review of zoning map.
- (3) Note whether use is allowed (Y), prohibited (N), or requires some form of review.
- (4) Note the sections referenced at right side of Table.
- (5) Read **additional** regulations pertaining to that district in **Article II, Sections 22-16 to 22-26** and any other sections referenced in the Table (i.e., Special Permit Criteria, **Section 22-13**).

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>2</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
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## General Uses

Cemeteries	SPPB	N	N	N	N	N	N	N	N	N	N	N	N	N
Commercial greenhouses	Y	Y	SPPB	SPPB	SPPB	SPPB	Y	N	U	Y	Y	N	N	N
Day camps indoor or outdoor	SPPB	N	N	N	N	N	SPPB	SPPB	U	Y	Y	N	N	N
Forest, wood lots, portable sawmills and machinery	Y	SPPB SPA	N	N	N	N	N	SPPB	U	N	N	N	N	N
Horticulture, floriculture on less than five acres	Y	Y	N	N	N	N	N	N	N	Y	Y	N	N	N
Livestock, agriculture on less than five acres	Y	SPPB	N	N	N	N	N	N	N	N	N	N	N	N
Livestock, agriculture, horticulture, floriculture on more than five acres (only if it is the primary use)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Recreation, outdoor	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Recreation, indoor	N	N	N	N	N	SPPB	SPPB	SPPB	U	Y	Y	N	N	N
Sand, gravel or loam removal <sup>3</sup>														

<sup>2</sup> Requires Site Plan Approval from the Planning Board

<sup>3</sup> Section 16.4

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>1</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
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## Institutional Uses

Day care center, family day care home, adult day care	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Educational uses on land owned or leased by the Commonwealth or any of its agencies or by a religious sect or denomination, or by a nonprofit educational corporation.	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Government buildings, parks, playgrounds, parking facilities, and housing for the elderly	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Long term care facility	N	N	SPPB	SPPB	SPPB	SPPB	Y	N	U	SPPB	SPPB	N	N	N
Medical facility	N	N	SPPB	SPPB	SPPB	SPPB	Y	N	Y	Y	Y	N	N	Y
Private clubs	N	N	Y	Y	N	N	Y	N	Y	Y	Y	Y	Y	Y
Public and private libraries and museums	N	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
Public utility buildings <sup>4</sup>	N	N	N	N	SPPB	SPPB	Y	Y	SPPB/U	SPPB	SPPB	SPPB	SPPB	SPPB
Religious organizations, including churches and parish houses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

<sup>1</sup> Requires Site Plan Approval from the Planning Board

<sup>3</sup> Subject to MGL c. 40A Section 3 – re: public service corporations

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>1</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
<b>Residential Uses</b>														
Apartment/Multi-family dwellings	N	N	SPA	SPA	SPPB SPA <sup>5</sup>	SPPB SPA <sup>6</sup>	SPPB	N	SPPB/U	Y	Y	N	N	SPA
Assisted living facilities	N	N	SPPB	SPPB	SPPB	SPPB	SPA	N	U	SPPB	SPPB	N	N	N
Bed and breakfast or inns	N	Y	Y	Y	Y	Y	Y	N	Y	N	N	N	Y	N
Boarding or lodging houses	N	N	Y	Y	Y	Y <sup>4</sup>	N	N	SPPB/U	N	N	SPPB	SPPB	SPPB
Conversion of single family dwellings to multi-family dwelling units	N	N	Y	Y	SPA <sup>4</sup>	SPA	Y	N	Y	N	N	N	N	N
Detached single family dwellings	Y	Y	Y	Y	N	N	N	N	U	N	N	Y	Y	N
Duplex houses/Two-family dwellings	N	N	Y	Y	SPA <sup>4</sup>	SPA <sup>5</sup>	N	N	U	N	Y	Y	Y	N
Mobile homes and trailer parks	SPPB SPA	N	N	N	N	N	SPPB SPA	N	U	N	N	N	N	N
Townhouses	N	N	SPA	SPA	SPA <sup>4</sup>	N	N	N	SPPB/U	N	Y	N	N	SPA

<sup>1</sup> Requires Site Plan Approval from the Planning Board

<sup>5</sup> See Subsection 21.2.2

<sup>6</sup> Residential uses are permitted in the Business B district with the exception that residential uses are prohibited from the ground or street level

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>7</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
<b>Business Uses</b>														
Adult bookstore	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult cabaret	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult dance club	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult entertainment use	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult motion picture theater	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult paraphernalia store	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult theater	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Adult video store	N	N	N	N	N	N	SPCC	N	N	N	N	N	N	N
Automobile public parking garages and lots	N	N	N	SPPB	SPPB	SPPB	Y	N	SPPB/U	SPPB	SPPB	N	N	N
Automobile dealer	N	N	N	N	N	N	SPPB	N	U	N	SPPB	N	N	N
Automobile service stations	N	N	N	N	N	N	Y	SPPB	U	N	N	SPPB	N	N
Automobile gas station minimart and car wash	N	N	N	N	N	N	SPPB SPA	N	U	N	N	SPPB	N	N
Automobile body shop	N	N	N	N	N	N	SPPB	SPPB	U	N	N	N	N	N
Banks	N	N	N	N	N	Y	Y	N	U	Y	Y	Y	N	Y
Big box retail	N	N	N	N	N	N	Y	N	N	N	Y	N	N	N
Building supplies and equipment rental	N	N	N	N	N	N	SPPB SPA	Y	U	N	N	N	N	N
Business and professional office or building	N	N	N	SPPB	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Business or vocational training	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y
Business services to actuarial, advertising, janitorial, office equipment rental, printing and photocopying, and other such services	N	N	N	N	N	Y	Y	N	Y	Y	Y	Y	N	Y

<sup>7</sup> Requires Site Plan Approval from the Planning Board



USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>7</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
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## Business Uses

Convenience store	N	N	N	N	SPA	SPA	Y	N	SPPB/U	SPPB	SPPB	SPPB	N	SPPB
Crematorium	N	N	N	N	N	N	N	SPPB	U	N	N	N	N	N
Funeral homes or undertaking facilities	N	N	Y	Y	N	SPPB	Y	N	SPPB/U	N	N	Y	SPPB	N
Health club	N	N	N	N	N	SPPB	Y	Y	SPPB/U	Y	Y	N	N	SPPB
Home occupation/office <sup>6</sup>	Y	Y	Y	Y	Y	Y	N	N <sup>7</sup>	Y	Y	Y	Y	Y	Y
Hotels	N	N	N	N	N	N	Y	SPPB	Y	N	Y	N	N	N
Kennel	SPPB SPA	N	N	N	N	N	N	SPPB SPA	U	SPPB	N	N	N	N
Mixed Use Development <sup>8</sup>	N	N	N	N	SPA	SPA	SPPB	N	Y	Y	Y	SPPB	N	SPA
Motels	N	N	N	N	N	N	Y	N	U	N	Y	N	N	N
Music, martial arts, yoga, or dance studio	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Office displays or interior sales space of custom shops & wholesale jobbing, assembly, distributing or printing establishments <sup>9</sup>	N	N	N	N	N	N	Y	Y	U	SPPB	SPPB	N	N	N
Personal service establishments	N	N	N	N	Y	Y	Y	SPPB	Y	Y	Y	Y	SPPB	Y
Pet services	N	N	N	N	Y	Y	Y	Y	U	Y	Y	N	N	N

<sup>1</sup> Requires Site Plan Approval from the Planning Board

<sup>6</sup> See **Section**     

<sup>7</sup> Allowed for residential units existing in the district as of the date of adoption of this ordinance

<sup>8</sup> See Article II for definition of mixed use development. Industrial uses in a mixed use development are not allowed in the DOD, MSOD, M/WOD and Village District.

<sup>9</sup> When approved by the Director of Inspections

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>7</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
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## Business Uses

Processing of grain, vegetables or dairy products for human consumption except that outside storage of products, by-products or waste is prohibited	N	N	N	N	N	N	N	Y	U	N	SPPB	N	N	N
Restaurant	N	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	N	Y
Restaurant, fast food/take out without drive-through	N	N	N	N	SPA	SPA	Y	N	SPPB/U	SPPB	Y	SPPB	N	SPPB
With drive-through	N	N	N	N	N	SPPB	SPA	N	U	N	Y	N	N	N
Retail Store	N	N	N	N	SPA	Y	Y	N	Y	Y	Y	Y	N	Y
Salesrooms and places for repair and service of boats and farm equipment	N	N	N	N	N	N	Y	N	U	N	Y	N	N	N
Self-storage	N	N	N	N	N	N	N	Y	U	N	N	N	N	N
Television or radio broadcasting studios, local access television station	N	N	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N
Warehouse, retail	N	N	N	N	N	N	SPPB SPA	SPPB SPA	U	SPPB	Y	N	N	N
Wholesale establishment	N	N	N	N	N	N	Y	N	U	SPPB	Y	N	N	N

<sup>1</sup> Requires Site Plan Approval from the Planning Board

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>1</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
<b>Industrial Uses</b>														
Contractor yards	N	N	N	N	N	N	N	Y	U	N	N	N	N	N
Energy production through renewable resources	N	N	N	N	N	N	SPPB SPA	Y	U	N	SPPB/SPA	N	N	N
Light manufacturing	N	N	N	N	N	N	Y	Y	U	SPPB	Y	N	N	N
Life sciences <sup>10</sup>	N	N	N	N	N	N	SPPB SPA	Y	U	N	Y	N	N	N
Manufacturing, including for renewable or alternative energy	N	N	N	N	N	N	N	Y	U	SPPB	Y	N	N	N
Manufacturing of products for on-site retail sale	N	N	N	N	N	N	Y	Y	U	SPPB	Y	N	N	N
Printing establishment	N	N	N	N	N	N	N	Y	U	SPPB	SPPB			
Recycling center	N	N	N	N	N	N	N	SPPB	U	N	N	N	N	N
Research and development facility, including for renewable or alternative energy	N	N	N	N	N	N	Y	Y	U	SPPB	Y	N	N	N
Research, development and production utilizing Recombinant DNA	N	N	N	N	N	N	N	Y	U	N	Y	N	N	N
Retail uses, including restaurants and cafeterias; and personal services establishments, including child day care, intended for employee use and part of manufacturing and/or office developments	N	N	N	N	N	N	Y	Y	Y	Y	Y	N	N	N
Storage and distribution of home heating fuels	N	N	N	N	N	N	N	SPPB	U	N	N	N	N	N
Warehousing	N	N	N	N	N	N	N	Y	U	N	Y	N	N	N

<sup>1</sup> Requires Site Plan Approval from the Planning Board

<sup>10</sup> As defined by Chapter 130 of the Acts of 2008. Please note separate listing for Recombinant DNA below.

USES	RRA	RAA	RB	RC	BA	BB	C	I	DOD	MU1 <sup>1</sup>	MU2 <sup>1</sup>	MSOD	M/WOD	VILLAGE DISTRICT
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## Transportation

### Uses

Bus depots and other passenger stations	N	N	N	N	SPA	SPA	SPPB SPA	Y	U	SPPB	SPPB	N	N	N
Taxi stands	N	N	N	N	SPA	SPA	Y	N	Y	Y	Y	N	N	SPA
Transportation or trade depots	N	N	N	N	N	N	SPPB	Y	U	N	N	N	N	N
Trucking terminal	N	N	N	N	N	N	N	Y	U	N	N	N	N	N

<sup>1</sup> Requires Site Plan Approval from the Planning Board

## ***ARTICLE III: DIMENSIONAL REGULATIONS***

### ***Section 22-33. General Requirements***

For the purpose of this section, all principal buildings may be built on any lot located in a district in which building is permitted, provided:

- 33.1 It is located so as to comply with the requirements for height and yards set out in subsection 27.8.
- 33.2 The lot contains at least the area required by subsection 27.8.
- 33.3 The lot is shaped such that it is capable of containing a circle with a diameter equal to at least the minimum frontage for that district and within which any principal building placed shall be the minimum yard requirements from any lot lines.
- 33.4 No lot on which a building is located in any district shall be reduced or changed in size or shape so that the building or lot fails to comply with the lot area, frontage, setback, yard or height provisions of this section applicable to the construction of the building on the lot, provided that this subsection shall not apply when a portion of lot is taken or conveyed for a public purpose. [In the Rural Residence and Agriculture and the Residence A and Agriculture Districts, no width dimensions of a front yard (as defined in Article I, Section 22-4) shall be less than the required lot frontage distance for the applicable district.
- 33.5 No building in any district need be located or placed further from the exterior line of any street or public way than the average distance from such street or way line of the dwelling or other principal buildings located on the lots adjacent thereto on each side. In determining such average, a vacant side lot having a frontage of fifty feet or more shall be considered as though occupied by a building having the required setback set out in subsection 27.8. If the lot adjacent to the lot in question has a frontage of less than fifty feet, then the lot next adjacent thereto shall be deemed to be the adjacent lot.
- 33.6 Nothing contained in this section shall prevent the projection of cornices or eaves not exceeding eighteen inches in width or of uncovered steps, unroofed porches or window sills into a required yard or other open space.
- 33.7 In all districts except within the flight path of commercial or governmental airports, farm buildings, churches, municipal or institutional buildings and spires, domes, steeples, radio towers, chimneys,

broadcasting and television antennas, bulkheads, cooling towers, ventilators, and other appurtenances usually carried above the roof may have any height, unless otherwise provided in this Ordinance.

- 33.8 Intensity regulations for principal structures shall be as set out in the following table. Residential lots in any other district than which they are permitted shall comply with the intensity regulations of the Residence District adjacent to that district, and in the case where two or more Residence Districts are adjacent to the district, the intensity regulations of the least restricted Residence District shall apply.

District & Minimum Lot Area	Min. Lot Width	Min. Side	Front Yard	Rear Dime- nsions	Height Number of Stories/ Feet	Min. Lot Frontage
Water Supply Protection District <i>3 acres (130,680 square feet)<sup>8</sup></i>	200 feet	20 feet	30 feet	40 feet	<b>2.5/30</b>	175 feet*
Rural Residence and Agriculture <i>1 acre (43,560 square feet)</i>	130 feet	20 feet	30 feet	40 feet	<b>2.5/30</b>	<i>not sewered</i> 175 feet*  <i>sewered</i> 120 feet
Residence A and Agriculture 21,780 square feet	100 feet	15 feet	20 feet	30 feet	<b>2.5/30</b>	80 feet
Residence B 10,000 square feet <sup>9</sup>	80 feet	10 feet	15 feet	20 feet	<b>3/35</b>	50 feet
Residence C 8,000 square feet <sup>10</sup>	70 feet	8 feet	15 feet	15 feet	<b>3/35</b>	50 feet

<sup>8</sup> Except that with respect to land in the District that remains in the same record ownership held at the time of the adoption of this amendment, a collective total of three (3) lots located on an accepted public way(s) that existed at the time of the adoption of this amendment anywhere in the District may have a minimum lot frontage for each lot of 120 feet, upon approval of the Board of Health, and a Minimum Lot Area of 2 acres (87,120 square feet).

<sup>9</sup> See **Section 19.2.2.3** – renovation to increase size of existing structure or conversion of a single-family residence to a two-family residence requires a minimum parcel size of 6,500 square ft.

<sup>10</sup> See **Section 20.2.2** – renovation to increase size of existing structure or conversion of a single-family residence to a two-family residence or two-family residence to a three-family residence requires a minimum parcel size of 5,000 square ft.

Business A None	none	10 feet where abuts Residence District	15 feet	15 feet	<b>2/25</b>	20 feet
Business B None	none	10 feet where abuts Residence District	none	none	<b>5/60</b>	20 feet
Commercial None	none	10 feet where abuts Residence District	25 feet	none	<b>5/60</b>	20 feet
Industrial None	none	25 feet except 50 feet where abuts Residence District	25 feet	25 feet except for building extending through block or to a railroad siding, and 50 feet where abuts Residence District	<b>5/90</b>	30 feet
<b>Mixed-Use 1<sup>11</sup></b>	none	See underlying district	See underlying district	See underlying district	<b>4/50</b>	<b>40 feet</b>
<b>Mixed-Use 2</b>	none	See underlying district	See underlying district	See underlying district	<b>3/50</b>	<b>none</b>
<b>Downtown Overlay<sup>12</sup> (Redevelopment of residential properties)</b>	none	<b>8 feet</b>	<b>none</b>	<b>8 feet</b>	<b>See underlying district</b>	<b>50 feet</b>

<sup>11</sup> Planning Board may reduce setbacks in accordance with **Section 22-25.4.1**

<sup>12</sup> Minimum lot size is 5,000 square feet

<b>Downtown Overlay</b> <b>(Non-residential properties)</b>	none	none	none	none	5/60 <sup>13</sup>	none
<b>Mechanic Street Overlay</b>	see underlying district	see underlying district	see underlying district	see underlying district	see underlying district	see underlying district
<b>Village</b>	none	50 feet	none	none	4/50 <sup>14</sup>	none

- 33.9 A trailer shall be set back at least fifteen (15) feet from any street line or driveway serving such trailer. A trailer shall be placed at least five (5) feet from any side lot line, and no trailer shall be nearer than ten (10) feet from any other trailer. A trailer shall be placed at least six (6) feet from any rear lot line.

#### ***Section 22-34. Location of Accessory Structures***

- 34.1 The yard provisions for principal structures shall apply to accessory structures, both detached or attached to the principal structure, when used for human occupancy.
- 34.2 Accessory structures, both detached or attached to the principal structure, when not used for human occupancy and not more than one story in height, may extend not more than five feet from the required side or rear lot line.
- 34.3 A detached accessory structure of one story shall not be closer to the principal structure than ten feet. A detached accessory structure of more than one story shall not be closer to the principal structure than fifteen feet and shall not be closer than ten feet to any side or rear lot line.
- 34.4 No accessory structure or structures shall occupy more than twenty-five percent of the required rear or side yard areas.

#### ***Section 22-35. Floor Area for Motel and Hotel Units***

Floor Area requirements for motels and hotels shall have a minimum of one hundred twenty-five square feet of floor area per dwelling unit.

<sup>13</sup> May go up to 6 stories and 75 feet pursuant to **Section 22-27.9.2**

<sup>14</sup> May go up to 5 stories and 60 feet in accordance with **Section 22-30.6.3**



### ***Section 22-36. Corner Clearance***

On a corner lot in any district, in order that visibility is unobstructed at intersections, no sign, fence, wall, tree, hedge, or other vegetation between three and eight feet above the established street grades shall be erected, placed or maintained within the triangular area formed by the intersecting street lines and a straight line adjoining each street line at points which are twenty feet distant from the point of intersection measured along such street lines.

### ***Section 22-37. Development Density Standards***

- 37.1 Ten percent (10%) of all lots shall be usable open space as defined in **Article X**.
- 37.2 Gross floor area shall not exceed three times the total lot area.

## ***ARTICLE IV: BOARD OF APPEALS***

### ***Section 22-38. Creation, Membership, Appointment***

A Board of Appeals consisting of five members and two associates shall be appointed by the Mayor subject to confirmation of the City Council as provided for in Section 12 of Chapter 40A of the Massachusetts General Laws. The Board of Appeals shall act on all matters pursuant to Massachusetts General Laws Chapter 40A and this Ordinance. In performing its function, the Board of Appeals shall give due consideration to promoting the public health, safety, convenience, and welfare, encouraging the most appropriate use of land and conserving property values; that it shall permit no building or use of land or building that is injurious, noxious, offensive or detrimental to a neighborhood and that it shall prescribe appropriate conditions and safeguards in each case.

The Board of Appeals shall adopt rules not inconsistent with the provisions of the Zoning Ordinance for the conduct of its business and for purposes of this Ordinance and shall file a copy of said rules with the City Clerk.

### ***Section 22-39. Powers and Duties***

The Board of Appeals shall have all the powers and duties prescribed by law and this Ordinance which are more particularly specified as follows:

- 39.1 To hear and decide any appeal from a decision by the Director of Inspections, to decide any question involving the interpretation of any provision of this Ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- 39.2 To hear and decide petitions for Variances in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby strict application of the Ordinance would result in practical difficulty or unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved. In granting such a Variance, the Board of Appeals must find that all of the following are met:
  - 39.3.1 That there are unique circumstances relative to the soil conditions, shape, topography, or other similar physical characteristics which specifically affect the land or structure in question, but not affecting generally the zoning district in which the land or structure is located.
  - 39.3.2 That literal enforcement of the Ordinance would involve substantial hardship, financial or otherwise.

39.3.3 That desirable relief may be granted without substantially derogating from the intent and purpose of the Zoning Ordinance.

39.3.4 That desirable relief may be granted without substantial detriment to the public good.

The Board of Appeals may impose conditions, safeguards, and limitations of time and use. However, the conditions cannot require continued ownership of the land or structure to which the Variance pertains.

If the rights authorized by a Variance are not exercised within one year of the date of approval, they shall lapse and may be reestablished only after notice of a new hearing are held.

### ***Section 22-40. Procedures***

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this section. All appeals and applications made to the Board shall be in writing on forms prescribed by the Board. Any appeal to the Board shall be filed within thirty days from the date of the order or decision which is being appealed. Every appeal shall refer to the specific provisions of the Section involved and shall exactly set forth the interpretation that is claimed, the details of the Variance that is applied for and the grounds on which it is claimed that the Variance should be granted.

Meetings of the Board of Appeals shall be held at the call of the Chair or when called in such other manner as the Board shall determine in its rules. The Board of Appeals shall hold a hearing on any appeal, application or petition transmitted to it within sixty-five days from the transmittal to the Board of such appeal, application, or petition. The Board shall cause notice of such hearing to be published and sent to parties in interest, and shall notify the Planning Board of Leominster, and request its advisory opinion, and shall notify the planning boards of all adjacent cities and towns of the hearing. The Chair, or in his/her absence, the acting Chair, may administer oaths, summon witnesses, and call for the production of papers.

The concurring vote of four members of the Board shall be necessary to reverse any order or decision of the Director of Inspections, to effect any Variance in the application of any Ordinance, or to grant any special permit.

Decisions of the Board of Appeals shall be made and filed in accordance with G.L. c. 40A.

## ***ARTICLE V: FLOODPLAIN DISTRICT***

### ***Section 22-41. Purpose***

The purpose of this Article, in addition to the purposes enumerated in Section 22-3 of this Ordinance, is to protect the public health, safety, and general welfare, to protect human life and property from the hazards of periodic flooding, to preserve the natural flood control characteristics, and the flood storage capacity of the floodplain, to ensure proper floodplain management consistent with criteria established by the National Flood Insurance Program, and to preserve and maintain the ground water table and water recharge areas within the floodplain. It is also designed to take into account floodplain management programs of neighboring areas. (11-8-82)

### ***Section 22-42. Floodplain District Delineation***

- 42.1 The floodplain district shall include those areas designated as a floodway on the Leominster, Massachusetts Flood Boundary and Floodway Map (the “FBFM”), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, and all special flood hazard areas designated as either Zone A or Zone A-I through A-30 on the Leominster, Massachusetts Flood Insurance Rate Map (the “FIRM”), Community Panel Numbers 250314-0001-0010, effective September 16, 1982, as the same may be amended from time to time. All existing zoning districts within the confines of the Floodplain District at the time of the passage of this Ordinance shall remain in force as specifically allowed and described in other sections of the Zoning Ordinance and as shown, defined and bounded on the map entitled “Leominster, Massachusetts, Zoning Map” or as such map and zoning districts delineated thereon are hereafter amended. Said existing zoning districts shall be subject also to the further requirements of **Section 22-37**.

### ***Section 22-43. Floodplain Use Regulations***

- 43.1 All development, including structural and nonstructural activities, whether permitted by right or by Special Permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in the floodplains. Whenever the requirements of this Article differ from those prescribed in other laws, Ordinances and codes, those requirements designed to reduce flood losses shall take precedence.
- 43.2 Within those areas designated as a floodway on the FBFM, the following uses of low flood damage potential and causing no obstruction to flood flows shall be allowed provided they are permitted in the underlying district and they do not require structures, fill or storage of materials or equipment:

- 43.2.1 Agricultural uses such as farming, grazing, truck farming, horticulture, etc.;
- 43.2.2 Forestry and nursery uses;
- 43.2.3 Outdoor recreational uses, including fishing, boating, play areas, etc.;
- 43.2.4 Conservation of water, plants, wildlife;
- 43.2.5 Wildlife management areas, foot, bicycle and/or horse paths;
- 43.2.6 Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises; and
- 43.2.7 Buildings lawfully existing prior to the adoption of these provisions.
- 43.3 Other than as permitted by subsection 37.2, no use, structure, building, encroachment, improvement or development shall be erected, constructed, improved, created or moved, no earth or other materials shall be dumped, filled, excavated, or transferred, within those areas designated as a floodway on the FBFM or as Zone A, Zone AO, Zone AH, Zone AI through A30, or Zone A99 on the FIRM, without first obtaining a Special Permit from the **Planning Board**. The **Planning Board**, in accordance with Section 9 of Chapter 40A of the Massachusetts General Laws, may issue a Special Permit hereunder, subject to other applicable provisions of this Ordinance, if the application is compliant with the following provisions:
  - 43.3.1 The proposed use or activity shall comply in all respects with the provisions applicable to the underlying district;
  - 43.3.2 The applicant has submitted adequate information upon which to base a decision, including, but not limited to, a Site Plan prepared by a Massachusetts registered professional engineer showing the proposed activity, existing and proposed topography at two-foot contour intervals and lowest floor elevations of any new or expanded building and certification by a Massachusetts registered professional engineer or architect that the proposed use, structure, building, encroachment, improvement, development, dumping, filling, excavation or transferal will not result in any increase in the flood level during the occurrence of the 100-year flood discharge, and meets the minimum standards set forth in the National Insurance Flood Program rules and regulations;
  - 43.3.3 The applicant has demonstrated that the project will not encroach upon the regulatory floodway so as to result in any increase in flood levels within the community during the occurrence of the base flood discharge;
  - 43.3.4 If the applicant proposes a subdivision, the applicant has demonstrated that:
    - 43.3.4.1 such proposal minimizes flood damage;
    - 43.3.4.2 all utilities and facilities are located and constructed to minimize or eliminate flood damage; and
    - 43.3.4.3 adequate drainage is provided to reduce exposure to flood hazards.
  - 43.3.5 If the applicant proposes to relocate or alter a watercourse, the applicant has provided, prior to or at the time of application, written notification by certified mail to:

- 43.3.5.1 Adjacent downstream and upstream communities;
- 43.3.5.2 NFIP State Coordinator  
Massachusetts Office of Water Resources  
100 Cambridge Street  
Boston, MA 02202; and
- 43.3.5.3 NFIP Program Specialist  
FEMA Region I, Rm. 462  
J.W. McCormick Post Office & Courthouse  
Boston, MA 02109
- 43.3.6 Within ten days of receipt of the application, the **Planning Board** shall transmit one copy of the development plan to the Conservation Commission, Department of Public Works, Board of Health and the Director of Inspections. Final action shall not be taken until reports have been received from the above boards or until thirty-five days have elapsed from the date of transmittal to such boards; and
- 43.3.7 The **Planning Board** may specify such additional requirements and conditions as it finds necessary to protect the health, safety, and welfare of the public and the occupants of the proposed use.
- 43.4 The Director of Inspections shall have the authority to enforce Sections 22-35 through 22-37 of this Article.

## ***ARTICLE VI: WATER SUPPLY PROTECTION DISTRICT***

### ***Section 22-44. Purpose***

The purpose of this Water Supply Protection Ordinance is:

- 44.1 To promote the health, safety and general welfare of the community;
- 44.2 To protect, preserve, and maintain present and potential sources of water supply for the public health and safety;
- 44.3 To protect, preserve and maintain the existing and potential groundwater supply and groundwater recharge areas within the City;
- 44.4 To reduce erosion of topsoil and the subsequent sedimentation of surface water bodies; and
- 44.5 To prevent blight and pollution of the environment.

### ***Section 22-45. Scope and Authority***

The Water Supply Protection District shall be considered as overlaying other zoning districts. Any uses permitted in the portions of the district so overlaid shall be permitted subject to all the provisions of this district. In cases where the provisions of this district are more stringent than those of the underlying district, the Water Supply Protection District shall supersede.

### ***Section 22-46. Water Supply Protection District Delineation***

The Water Supply Protection District is defined as all lands within the City of Leominster lying within the primary and secondary recharge areas of groundwater and watershed areas of reservoirs and aquifers in areas of wells that provide public water supply. These areas are designated as the “Leominster Water Supply Protection District,” as depicted on the map entitled “Water Supply Protection District,” prepared for the Leominster Planning Board, based on the Zone II Delineation prepared by Earth Tech for the Department of Environmental Protection in June, 1999, and on file in the Planning Board office. The Water Supply Protection District is hereby incorporated as part of the “Zoning Map of Leominster, Massachusetts” on file in the City Clerk’s office.

Where bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should properly be located. However, the Planning Board retains its authority to determine property location with regard to said Water Supply Protection District.

At the request of the owner(s), the City may engage a professional geologist, soil scientist, or engineer trained in hydrogeology to determine more accurately the location and extent of a protection area, and charge the owner(s) for the cost of the investigation.

### ***Section 22-47. Water Supply Protection Use Regulations***

- 47.1 Whenever the requirements of this Article differ from those prescribed in other laws, Ordinances and codes, the stricter requirements designated to protect water supplies will take precedence.
- 47.2 The following uses shall be PERMITTED within the Water Supply Protection District as a matter of right where allowed by law or regulation.
- 47.2.1 Conservation of soil, water, plants, and wildlife;
- 47.2.2 Outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted;
- 47.2.3 Duck walks, landings, foot and bicycle paths;
- 47.2.4 Proper operation and maintenance of existing water bodies and dams, flash boards and other water control, supply and conservation devices;
- 47.2.5 Maintenance and repair of any existing structure provided there is no increase in permeable areas;
- 47.2.6 Non-intensive agricultural uses (pastures, light grazing, hay), nursery, conservation, forestry and harvesting provided that fertilizers, herbicides and other leachable materials are not stored outdoors nor used in excessive amounts; and
- NOTE: Where the application of fertilizers, pesticides, herbicides or other potential contaminants is being made, groundwater quality monitor test wells may be installed and periodically sampled and tested by the City. Such installation and sampling will be conducted by an agent of the Board of Health.*
- 47.2.7 Necessary public utilities and facilities designed so as to prevent contamination of surface water and groundwater.
- 47.3 The following uses are PROHIBITED within the Water Supply Protection District:
- 47.3.1 Disposal of solid wastes, other than brush and stumps;
- 47.3.2 Storage and/or transmission of petroleum or other refined petroleum products except within buildings which they will heat;
- 47.3.3 The disposal of liquid or leachable wastes, wastewater and/or septage residuals, brush and stumps, except residential subsurface waste disposal systems and normal agricultural operations;



- 47.3.4 The use of septic system cleaners which contain toxic organic chemicals;
- 47.3.5 The rendering impervious of more than 15 percent of any lot;
- 47.3.6 Industrial uses which discharge process wastewater including any commercial and service uses discharging wastewater containing contaminants other than normal organic waste;
- 47.3.7 Storage of road salt or deicing chemicals;
- 47.3.8 Use of chemicals for deicing unless deemed necessary for public safety;
- 47.3.9 Dumping of snow brought in from outside the Water Supply Protection District;
- 47.3.10 Animal feedlots;
- 47.3.11 The storage of manure;
- 47.3.12 The mining of land except as incidental to a permitted use; Mining to closer than four feet of the water table is absolutely prohibited;
- 47.3.13 The storage or disposal of hazardous or toxic wastes, as defined by the U.S. Environmental Protection Agency under 40 CFR 250 and the Regulations of the Massachusetts Hazardous Waste Act, M.G.L. Chapter 21C;
- 47.3.14 Automotive service stations and motor vehicle repair shops, junk and salvage yards, trucking and bus terminals, car and truck washes and airports;
- 47.3.15 The alteration of any natural site features or topography including but not limited to the cutting or removal of trees or other natural vegetation, or the dumping, filling, excavation, grading, transferring or removing of any gravel, sand, loam or other soft material, rock or ledge prior to obtaining all permits and approvals for final development plans required by this Ordinance;
- 47.3.16 Business and industrial uses or facilities which generate, treat, store, or dispose of hazardous or toxic materials or waste, including but not limited to chemical manufacturing, metal plating, wood preserving, furniture stripping, leather finishing, metal fabricating or manufacturing, electrical equipment manufacturing, dry cleaning, petroleum product manufacturing, photographic processing, and printing;
- 47.3.17 Outdoor storage of pesticides or herbicides.
- 47.4 The following uses are RESTRICTED within the Water Supply Protection District:
- 47.4.1 Petroleum products stored within a building shall be placed on a diked, impermeable surface to prevent spills or leaks from reaching groundwater.
- 47.4.2 The amount of sanitary waste discharged to an on-site sewerage system shall not exceed 150 gallons per day per acre.
- 47.4.3 All runoff from impervious surfaces or otherwise due to development, shall be recharged on the site by being diverted to stormwater infiltration basins covered with natural vegetation. Stormwater infiltration

basins must be designed to handle a 25 year storm. Dry wells shall be used only where other methods are infeasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.

47.5 In the Water Supply Protection District, the following uses may be PERMITTED BY A SPECIAL PERMIT from the **Planning Board** in accordance with the Site Plan review standards in subsection 41.6:

47.5.1 Commercial and industrial uses permitted in the underlying district, except for those uses expressly prohibited in subsection 41.3.

47.5.2 Residential developments requiring approval under the Subdivision Control Law (M.G.L. Chapter 41).

**47.5.3 Open Space Community Developments in accordance with Article \_\_\_ of this Ordinance.**

47.5.4 Water discharged from detention facilities or other structures provided it is released in a manner that will prevent erosion and sedimentation and minimize accumulation of debris.

47.5.5 Residential development of single-family dwellings, provided that the lot area for each dwelling is at least three acres in size, except as set forth in the Table that follows Section 22-27 of the Article III Dimensional Regulations in the case of three (3) non-sewered lots on an existing public way.”

47.5.6 Sanitary waste discharge, not exceeding 150 gallons per day per acre, to an on-site sewerage system.

47.5.7 Poultry farms and other intensive agricultural operations that are primarily carried on within buildings.

47.6 In addition to meeting the Special Permit requirements described in Section 22-13 of the Leominster Zoning Ordinance, each application for a Special Permit in the Water Supply Protection District shall be accompanied by six copies of a Site Plan. The Site Plan, to be prepared by an Engineer registered in the Commonwealth of Massachusetts, shall include, at the minimum, the following:

47.6.1 Provisions to prevent contamination of groundwater by petroleum products, hazardous materials or wastes.

47.6.2 Drainage recharge features and provisions to prevent loss of recharge.

47.6.3 Provisions to prevent soil compaction.

47.6.4 Provisions to prevent seepage from sewer pipes.

47.6.5 A complete list of chemicals, pesticides, fuels and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use. Those businesses using or storing such hazardous materials shall file a definitive operating plan.

47.6.6 A plot plan showing:

47.6.6.1 Location of wetlands, streams, water bodies, and flood plain;

47.6.6.2 Existing drainage patterns;

- 47.6.6.3 Existing woodland;
- 47.6.6.4 Areas having slopes exceeding 15%;
- 47.6.6.5 Areas to be disturbed by construction;
- 47.6.6.6 Areas where earth and other material subject to erosion will be temporarily stockpiled;
- 47.6.6.7 Areas to be used for disposal or storage of construction debris, stones, stumps, etc. if within the District;
- 47.6.6.8 Temporary and permanent erosion control measures planned, such as sediment basins, storm water basins, diversions, rip-rap, stabilization seedings, etc.;
- 47.6.6.9 Temporary work roads to be used during projects;
- 47.6.6.10 Locations and size of septic system; and
- 47.6.6.11 Method to contain spillage in fuel filling areas.
- 47.6.7 A storm drainage plan showing:
  - 47.6.7.1 Locations of drains and culverts, and names of streams, rivers, ponds, or reservoirs in the City into which they flow;
  - 47.6.7.2 Discharge peaks and expected velocities at drain or culvert outlets;
  - 47.6.7.3 Conditions above and below outlets and expected flow velocities; and
  - 47.6.7.4 Supporting computations for the above.
- 47.6.8 A grading plan showing existing topography and planned grade along existing and/or proposed street or highway profiles.
- 47.6.9 A siltation and sedimentation control plan including:
  - 47.6.9.1 Sediment and erosion control structures such as diversions, waterways, slope stabilization structures, sediment basins, etc., in sufficient detail to implement their installation together with referred standards for soil erosion and sediment as appropriate, and design calculations as required for each structure;
  - 47.6.9.2 Seeding and/or sodding requirements for all exposed areas including seedbed preparation, seed mixtures, lime, fertilizer and mulching requirements with referenced standards;
  - 47.6.9.3 Schedule or sequence of operation with starting dates for clearing and/or grading, timing for storm drain and culvert installation, duration of exposure of soils and critical area stabilizations, both temporary and permanent. Indicate dates when critical area stabilization, paving, seeding, mulching or sodding is to be completed; and
  - 47.6.9.4 General notes for sediment control that spell out the procedures for implementing the plan.

- 47.7 The **Planning Board** may adopt and from time to time amend rules and regulations which shall prescribe the size, form, content and style of the plans and procedures for submission and approval of such Special Permits. These rules and regulations shall be filed with the City Clerk.
- 47.8 Upon receipt of an application, the **Planning Board** shall transmit one copy of the Site Plan to the Conservation Commission, Board of Health, Department of Public Works and the Director of Inspections. Final action shall not be taken until reports have been received from the above Boards or until 35 days have elapsed.

The **Planning Board** may, after notice and public hearing as required, grant such a Special Permit if it:

- 47.8.1 Is in harmony with the purpose and intent of this Ordinance and will promote the purposes of the Water Supply Protection District;
- 47.8.2 Is appropriate to the natural topography, soils and other characteristics of the site to be developed;
- 47.8.3 Will not, during construction or thereafter, have an adverse environmental impact on any surface water, aquifer or recharge area;
- 47.8.4 Will not adversely affect an existing or potential water supply; and
- 47.8.5 Is consistent with existing and probable future development of surrounding areas.
- 47.9 Recommendations will also be sought from the Department of Public Works and the Board of Health.

### ***Section 22-48. Technical Reference***

The Technical Reference to be used to prepare and review Site Plans is “Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts” 1977, U.S.D.A. Soil Conservation Service, Amherst, Massachusetts. Specific guidelines to be used include, but are not limited to:

- 48.1 Limit grading to only those areas actively undergoing current construction.
- 48.2 The smallest practical area of land should be exposed at one time during development.
- 48.3 Limit the length of time graded areas are exposed.
- 48.4 Provide temporary or permanent stabilization of disturbed areas at the earliest opportunity. Limit exposure to less than 60 days.
- 48.5 Retain and protect as much of the natural vegetation as possible.
- 48.6 Permanent improvements such as streets, utilities, storm sewers, vegetated waterways, and other features of the development should be scheduled for installation to the greatest extent possible before removing the vegetative cover from an area scheduled for building construction.

- 48.7 Protect all fill slopes and cut slopes exceeding five feet in height from storm run-off through the use of diversion berms, drop chutes or other acceptable means;
- 48.8 Rough-graded rights-of-way awaiting installation of utilities and/or pavement should be protected by the installation of interceptor berms across the right-of-way as to reduce the length of slope between berms to not more than 250 feet; and
- 48.9 On sites where the above procedures are impractical or not acceptable where the topography permits, install sediment basins, desilting basins, or silt traps to remove sediment from runoff waters.

#### ***Section 22-49. Permit Fee***

A fee shall be collected by the City Clerk at the time that an application for a Special Permit is submitted. The Planning Board shall recommend the adoption of a prorated fee schedule based upon the relative complexity of the project and the proposed scope of work. Said fee schedule shall reflect the cost of the administration and management of the permitting process, and shall be placed on file with the City Clerk. The fee schedule may be amended from time to time by the **Planning Board**.

#### ***Section 22-50. Permit Withdrawal***

Any application for a Special Permit may be withdrawn without prejudice by the applicant prior to the publication of the public hearing notice. Once the notice has been published, however, a withdrawal without prejudice may be permitted only with the approval of the **Planning Board**.

## ***ARTICLE VIII: SITE PLAN APPROVAL***

### ***Section 22-51. Site Plan Approval Applicability***

In all instances specified in the Table of Uses, **Section 22-26**, indicating that Site Plan Approval is required, and in all cases listed below, approval of a Site Plan shall not be granted except in conformity with a Site Plan bearing an endorsement of approval by the Planning Board and other boards as deemed appropriate by the Planning Board, including the following: Director of Inspections, Board of Health, Conservation Commission, Fire Department, Police Department, and Department of Public Works.

A Site Plan Approval from the Planning Board shall be required where a new use or expansion of an existing use will result in:

- ten (10) or more new parking spaces or an increase of parking spaces of 25 percent or more, **whichever is greater;**
- the creation of 10,000 square feet of new gross floor area on a single lot;
- change of use classification on a lot;
- more than one building on a lot;
- any business that will utilize a drive through facility or window.

### ***Section 22-52. General Purpose and Objectives***

Site Plan Approval is a regulatory role of the Planning Board, intended to control site development. The Planning Board shall not deny Site Plan Approval based upon the proposed use of the property if that use is one which is allowed as a matter of right. Site Plan Approval is utilized to accomplish the purposes set forth in **Section 22-3** of this Ordinance as to the specific goals of:

- facilitating traffic channelization and control;
- **providing for safe pedestrian and bicycle access;**
- assuring adequate drainage of surface water; and
- protecting the environment, property values, abutting properties and visual amenities

To facilitate the administration of the Section, no building permit for the construction, exterior alteration, relocation, occupancy or change in use of any building, structure or premises, shall be granted until the provisions of this Ordinance have been fulfilled.

In reviewing a Site Plan application, the Planning Board shall take into consideration the health, safety and welfare of the public in general and the immediate neighborhood in particular, and may prescribe reasonable conditions and safeguards to ensure the accomplishment of the following general objectives:

- 52.1 That the proposed Site Plan shall be in conformance with the intent of the zoning district and shall not take precedence over specific provisions of the Zoning Ordinance.
- 52.2 That all buildings, structures, uses, equipment and materials are readily accessible for police and fire protection.
- 52.3 That adequate off-street parking and loading spaces are provided to prevent traffic congestion; that all parking spaces, maneuvering areas are suitably identified and designed to meet standards specified within this Ordinance; and that provision is made for safe pedestrian movement within and adjacent to the property by the installation of sidewalks.
- 52.4 That all proposed pedestrian access ways do not create traffic hazards and are:
  - 52.4.1 adequate, but not excessive in number;
  - 52.4.2 adequate in width, grade, alignment and visibility;
  - 52.4.3 adequate distance from street corners, places of public assembly and other access ways; and
  - 52.4.4 adequately designed for other safety considerations.
- 52.5 That the general landscaping of the site complies with the purpose and intent of this Ordinance; that existing trees are preserved to the maximum extent possible; that parking storage, refuse and service areas are suitably screened during all seasons from the view of adjacent residential areas and public rights-of-way.
- 52.6 That lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation; that the glare from the installation of outdoor lights and illuminated signs is properly shielded from the view of adjacent property and public rights-of-way.
- 52.7 That all utility systems are suitably located, adequately designed and properly installed to serve the proposed uses, to protect the property from adverse pollution.
- 52.8 That the development of the site will preserve sensitive environmental land features such as steep slopes, wetlands, and large rock outcroppings and will attempt to preserve public scenic views or historically significant features.
- 52.9 That the location and size of proposed buildings, uses or structures, as well as the nature and intensity of the operations involved or conducted in connection therewith, will be in general harmony with the surrounding neighborhood.

### ***Section 22-53. Application***

Each application for Site Plan Approval shall be submitted to the Planning Board accompanied by ten (10) copies of the Site Plan. The Planning Board shall, within five (5) days, transmit one copy each to the Director of Inspections, Board of Health, Conservation Commission, and other appropriate boards and departments.

The Director of Planning and the Chair of the Planning Board shall have the authority to waive the necessity for Planning Board approval for changes in use of existing buildings **or any other changes deemed to be minor in nature**. The Director and the Chair shall report the waiver to the Planning Board.

### ***Section 22-54. Procedure for Review***

- 54.1 Said Site Plan shall be prepared by a Massachusetts registered professional architect, landscape architect, or a registered professional engineer, and shall show the following:
  - 54.1.1 All property boundaries and the use and ownership of adjacent land and the location and use of any building thereon within three hundred (300) feet of the boundary of the subject property. The “City of Leominster, Assessor Maps” as amended to the date of filing said Site Plan shall be acceptable to show the information required by this paragraph.
  - 54.1.2 Date, North arrow, and numerical and graphical scale.
  - 54.1.3 The Site Plan map shall illustrate the existing and proposed conditions of the property including existing and proposed contours at intervals of two (2) feet, and the location of all existing wooded areas, watercourses, wetlands, and other significant **natural** features and, where, appropriate, the boundary of the flood hazard area.
  - 54.1.4 All existing and proposed buildings, structures, parking spaces, driveways, driveway openings, loading areas and service areas on the subject property.
  - 54.1.5 A written description of the proposed use or uses.
  - 54.1.6 Location Map. An accurate scale map at a scale of 1”=1000’ shall be submitted showing the subject property and all property and streets within 1000’.
  - 54.1.7 Easements. Location, width and purpose of all existing and proposed easements and rights-of-way on the property.
  - 54.1.8 Provisions for screening, surfacing, lighting, landscaping (including fences, wall, planting area, and walks) and signs. The landscaping plan shall illustrate the existing and proposed landscape development of the property, including the location, general layout, type and size of buffer or landscape area, plant material, fencing, screening devices, decorative paving or other materials proposed.
  - 54.1.9 Provisions for waste disposal, drainage, dust, erosion control, water and power supply. All refuse containers shall be screened from view from the street, and wherever possible shall be located at the rear of the property.
  - 54.1.10 Provisions for snow removal.
  - 54.1.11 Location, arrangement and dimensions of automobile parking spaces, aisles, vehicular drives, fire lanes, entrances, exits and ramps.



- 54.1.12 Location, arrangement and dimensions of loading and unloading areas.
- 54.1.13 Location and dimensions of the pedestrian walkways, entrances and exits.
- 54.1.14 Location, size, height, orientation and design of all signs.
- 54.1.15 Location, size, height, orientation and design of any outdoor lighting.
- 54.1.16 Location and design of all existing and proposed sanitary sewer, storm drainage, water supply facilities and above ground utilities. All public utilities shall substantiate that such underground placement is impractical.
- 54.2 Period of Review - The period of review for a Site Plan Approval shall be as follows:
  - 54.2.1 Within seven (7) days of receipt of a complete application, the Planning Department shall forward copies of the Site Plan to all departments and boards deemed relevant by the Planning Board.
  - 54.2.2 Within 65 days of submission, the Planning Board shall hold a public informational meeting on the application.
  - 54.2.3 Within 90 days of the informational meeting, the Planning Board shall act on the application.

### ***Section 22-55. Approval by the Director of Inspections***

- 55.1 In reviewing a Site Plan under this section, the Planning Board shall give due consideration to the Director of Inspections reports and shall communicate all subsequent decisions to the Board of Health and Conservation Commission. The following standards shall be considered by the aforementioned Boards in the review and evaluation of a Site Plan to a degree consistent with a reasonable use of the site for the purposes permitted or permissible by the regulations of the district in which it is located:
  - 55.1.1 Protection from flood hazards as stated in **Article V**, considering such factors as: elevation of buildings; drainage; adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant material; extent of paving; effect of fill; roadways or other encroachments on flood runoff and flow; storage of chemicals and other hazardous substances; and provisions for snow removal.

### ***Section 22-56. Site Design Standards for Non-Residential Development***

The purpose of the following site design standards is to ensure that adequate consideration will be given to the natural resources and characteristics of a site; to its topographic, hydrologic and geologic conditions; to public convenience and safety, particularly with regard to abutters; **incorporate streetscape improvements**; and to the suitability of a proposed use on a site. Before the granting of any Site Plan Approval, the Planning Board shall assure that each Site Plan submitted for review shall comply in full with the following site design standards:

- 56.1 Storm Water Runoff - For any site containing 80,000 square feet of land area or more, the peak rate of storm water runoff including sudden snow melt off the development site to the drainage area(s) shall not

exceed the rate existing prior to the new construction based on a 10 year design storm. **Where feasible, Low Impact Development (LID) stormwater management techniques shall be used (see Section \_\_\_\_).** The applicant shall provide the analysis, certified by a Massachusetts registered Civil Engineer, necessary to document the previous and proposed run-off rates. **Stormwater regulations and policies administered by the Department of Environmental Protection (DEP), as they may be amended, shall be met.** The Planning Board may authorize the use of storm water drainage facilities located off the development site and designed to serve one or more lots provided it finds that:

- 56.1.1 The peak rate of storm water runoff from such off site facilities does not exceed the rate existing prior to the new construction based on a 25 year design storm; and
- 56.1.2 The applicant has retained the rights and powers necessary to assure that the off-site storm water drainage facilities will be properly maintained in good working order.
- 56.2 Outdoor Lighting - In the area of new construction, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spilling over to neighboring properties. Except for low-level intensity pedestrian lighting with a height of less than eight (8) feet, all outdoor lighting shall be designed and located so that:
  - 56.2.1 The luminaire has an angle of cutoff less than 76 degrees; and
  - 56.2.2 A line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the development site. On sites abutting residential properties, there shall be no obtrusive lighting from 10:00 p.m. to dawn.
- 56.3 Common Driveway in the Commercial or Industrial Districts - A common driveway may serve two or more lots used for business or industrial use and located in the commercial or industrial districts provided that the common driveway is no wider than 24 feet at any point where it crosses required open space or any parking setback area required under **Article XI**. The Planning Board shall ensure that the common driveway shall not be located or designed to derogate from the intent of the Ordinance to provide suitable open space on each site.
- 56.4 Landscaping Standards (see Section \_\_\_\_ ) - Any landscaping shall be designed to enhance the visual impact of the use upon the lot and adjacent property. Where appropriate, existing vegetation may be retained and used to satisfy the landscaping requirements. **Landscaped** areas shall be kept free of encroachment by all buildings, structures, storage areas or parking. Landscaping shall be **properly** maintained as open planted areas **in accordance with a maintenance plan** and used to: (1) ensure buffers between properties, (2) provide landscaped areas between buildings, (3) minimize the visual effect of the bulk and height of buildings, structures, parking areas, lights or signs, (4) minimize the impact of the use of the property on land and water resources, and (5) ensure access for emergency vehicles. **Shrubs or trees which die shall be replaced within one growing season.**
  - 56.4.1 Where a business or industrial use abuts a residential district, a landscape buffer of a minimum of fifty (50) feet in depth designed to mitigate the impact of the business or industrial use on abutting residential districts may be required.
  - 56.4.2 All parking lots and loading facilities shall be suitably landscaped to minimize their visual impact on the lot and upon adjacent property by the use of existing vegetation where appropriate and by the use of trees, shrubs, walls, fences or other landscape elements **as described in Section \_\_\_\_**.

## ***Section 22-57. Residential and Commercial Development Performance Standards***

In order to receive Site Plan Approval or a Special Permit, all **multi-family residential and all nonresidential** projects or uses must demonstrate compliance with the **Residential and Commercial Development Performance Standards** herein, and abide by the Environmental Performance Standards set forth in **Section 22-55**. **For any project in the Downtown Overlay District, the provisions of Section \_\_\_\_ shall apply.**

57.1 Standards that apply to projects or uses in the Business and Commercial Districts

57.1.1 Parking Standards

Proposed projects or uses must comply with Off-street Parking and Loading regulations in **Article XI** and the following standards:

57.1.1.1 No parking shall be permitted within the required front yard setback of a structure. If the physical configuration of the lot creates a hardship for the property owner to meet this requirement, the Planning Board may allow parking in the front, with adequate screening, as noted in **subsection 54.1.5.2**.

57.1.1.2 To the extent feasible, parking areas shall be shared with adjacent businesses (**see Section \_\_\_\_**).

57.1.1.3 For developments that make a long-term commitment to actively promote employee and public use of transit, ridesharing, and other means to reduce single occupant vehicle (SOV) trips, minimum parking standards may be reduced by a percentage, up to a maximum of twenty percent (20%) to be determined by the Planning Board based upon the adequacy of trip reduction plans submitted in accordance with **subsection 54.2.4**.

**57.1.2 Appearance/Architectural Design Standards (See **Section \_\_\_\_** for specific standards that apply to the Downtown Overlay District, Village District, and the Mechanic Street Overlay District.)**

57.1.2.1 Architectural design shall be compatible with the character and scale of buildings in the City through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation and separation between buildings. The Planning Board may take into consideration whether exterior building facades and materials are consistent with Leominster's character. For example, exterior materials such as wood, metal, vinyl clapboards, stone or brick, and treatment compatible on all four sides, are considered consistent with Leominster's character. The Planning Board may consider whether the roofline is peaked, or is otherwise consistent with the City's character. Large work area doors or open bays shall not open toward or face roadways.

57.1.2.2 The Planning Board may adopt such regulations as may be necessary to further specify design standards.

57.1.2.3 In particular, developments and projects which are located at the gateways or highway corridor entry points to Leominster shall be reviewed for consistency with neighboring uses and the impact the development has to the appearance of the entry to the City.

57.1.3 Lighting Standards

- 57.1.3.1 Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong, direct light beyond the property boundaries.
- 57.1.3.2 No light standard shall be taller than fifteen (15) feet.
- 57.1.4 Access Standards
- 57.1.4.1 Curb cuts shall be limited to the minimum width for safe entering and exiting and shall in no case exceed 24 feet in width, per lane.
- 57.1.4.2 All driveways shall be designed to afford motorists exiting to highways with safe sight distance.
- 57.1.4.3 Adequate pedestrian and bicycle access shall be provided as follows:
- 57.1.4.3.1 Sidewalks shall be provided to enable pedestrian access to adjacent properties, and between individual businesses within a development. **Provisions shall be made to include bicycle racks to accommodate the parking of bicycles.** The appropriate authority may waive this requirement in a case where such action is in the public interest and not inconsistent with the purposes stated in Section 22-13 and Article VIII. The appropriate authority for by-right uses is the Director of Inspections, for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.
- 57.1.5 Landscaping Standards (see Section \_\_\_\_).
- 57.1.5.1 Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings. Evergreen plants must be at least two (2) feet tall at planting with the capacity to grow to full screening of the unsightly use. Plantings must be four (4) feet at planting when abutting a residential zone.
- 57.1.5.2 All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.
- 57.1.5.3 Completion of the landscaping requirements may be postponed for a period not to exceed six (6) months from the time of project completion due to winter weather conditions.
- 57.2 Standards That Apply to Projects or Uses in Commercial Districts
- Projects or uses in the Commercial District must abide by the standards in this section in addition to the standards set forth in subsection 54.1.
- 57.2.1 Access Standards
- Applicants for projects or uses within the Commercial District must demonstrate that the project or use will minimize traffic and safety impacts on highways.
- 57.2.1.1 The number of curb cuts on state and local roads shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:

- 57.2.1.1.1 Access via a common driveway serving adjacent lots or premises
- 57.2.1.1.2 Access via an existing side street
- 57.2.1.1.3 Access via cul-de-sac or loop road shared by adjacent lots or premises.
- 57.2.1.2 One driveway shall be permitted as a matter of right per business or per project, if a project includes several businesses within a structure or group of structures. Entering and exiting lanes shall be separated by a median strip. Where deemed necessary by the appropriate authority, two driveways may be permitted as part of the Site Plan Approval process which shall be clearly marked "entrance" and "exit". The appropriate authority for by-right uses is the Director of Inspections, and for uses by Special Permit or Site Plan Approval, the appropriate authority is the Planning Board.
- 57.2.2 Landscaping and Screening Standards
  - 57.2.2.1 A landscaped buffer strip at least fifteen (15) feet wide, continuous except for approved driveways, shall be established adjacent to any public road to visually separate parking and other uses from the road. The buffer strip shall be planted with grass, medium (3 feet to 4 feet) height shrubs, and shade trees (minimum two-inch (2) caliper, planted at least every fifty (50) feet along the road frontage). At all street or driveway intersections, trees or shrubs shall be set back a sufficient distance from such intersections so that they do not present a traffic visibility hazard. The sidewalk required in subsection 54.1.4.3.1 shall be incorporated into the buffer strip.
- 57.2.3 Traffic Impact Statement
  - 57.2.3.1 A traffic impact statement shall be prepared, which shall contain:
    - 57.2.3.1.1 Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site.
    - 57.2.3.1.2 A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections.
    - 57.2.3.1.3 Sidewalks for adequate pedestrian and bicycle access shall be provided to adjacent properties and between individual businesses within a development.
  - 57.2.3.2 An additional traffic impact statement shall be prepared for projects over ten thousand (10,000) square feet, which shall contain:
    - 57.2.3.2.1 A plan to minimize traffic and safety impacts through such means as physical design and layout concepts, staggered employee work schedules, promoting use of public transit or carpooling, or other appropriate means.
    - 57.2.3.2.2 An interior traffic and pedestrian circulation plan designed to minimize conflicts and safety problems.
- 57.2.4 Trip Reduction Plan

- 57.2.4.1 When requested by the Planning Board and where a new building(s) or new use of more than ten thousand (10,000) square feet is proposed, the applicant shall prepare and submit a "Trip Reduction Plan" clearly identifying a combination of transportation systems management strategies that are designed to reduce anticipated vehicle trips by thirty-five (35) percent. These strategies may include, but are not limited to:
- 57.2.4.1.1 Vanpool/carpool incentive programs, such as employer subsidies for vanpools/carpools, preferred vanpool/carpool parking, ride matching services, and providing parking at the vanpool/carpool pick-up site.
  - 57.2.4.1.2 Allowing and encouraging flexible work hours and flexible work weeks.
  - 57.2.4.1.3 Encouraging pedestrian and bicycle commute modes by providing on-site bicycle parking storage, locker room facilities, bicycle and walking paths, and similar features.
  - 57.2.4.1.4 Site designs that are conducive to transit or vanpool use, such as convenient, weather protected transit shelters.
  - 57.2.4.1.5 Encouraging employee and customer use of transit services, including providing transit subsidies for improved transit service and accessibility.
  - 57.2.4.1.6 Provision of on-site services, retail opportunities, and housing if allowed in the zone.
  - 57.2.4.1.7 Naming a full-time or part-time transportation systems management coordinator to oversee implementing all strategies identified in the "Trip Reduction Plan."

## ***Section 22-58. Environmental Performance Standards***

Any use permitted by right or by Special Permit in any district shall not be conducted in a manner as to emit any dangerous, noxious, injurious, or otherwise objectionable fire, explosion, radioactive or other hazard; noise or vibration, smoke, dust, odor or other form of environmental pollution; electrical or other disturbance; glare; liquid or solid refuse or wastes; conditions conducive to the breeding of insects, rodents, or other substance; conditions or element in any amount as to affect adversely the surrounding environment. The following standards shall apply:

- 58.1 Emissions
  - 58.1.1 Emissions shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located.
  - 58.1.2 No emission that can cause any damage to health of animals or vegetation or that can cause excessive soiling, at any point, shall be permitted.
  - 58.1.3 No emission of odorous gases or odoriferous matter in such quantities as to be offensive shall be permitted. Any process that may involve the creation and/or emission of any odors shall be provided with a secondary safeguard system.
- 58.2 Erosion Control

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following "best management" practices:

- 58.2.1 Exposed or disturbed areas due to stripping of vegetation, soil removal, and grading shall be permanently stabilized within six (6) months of occupancy of a structure.
- 58.2.2 During construction, temporary vegetation and/or mulching shall be used to protect exposed areas from erosion. Until a disturbed area is permanently stabilized, sediment in runoff shall be trapped by using staked hay bales or sedimentation traps.
- 58.2.3 Permanent erosion control and vegetative measures shall be in accordance with erosion/sedimentation vegetative practices recommended by the Soil Conservation Service.
- 58.2.4 All slopes exceeding fifteen (15) percent resulting from the site grading shall be either covered with four (4) inches of topsoil and planted with a vegetative cover sufficient to prevent erosion or be stabilized by a retaining wall.
- 58.2.5 Dust control shall be used during grading operations if the grading is to occur within 200 feet of an occupied residence or place of business. Dust control methods may consist of grading fine soils on calm days only or dampening the ground with water.
- 58.3 Discharge

No discharge, at any point, into a private sewer system stream or the ground of any material in such a way, or of such a nature or temperature as can contaminate any running stream, water supply or otherwise cause the emission of dangerous or objectionable elements and accumulation of wastes conducive to the breeding of rodents or insects shall be permitted.
- 58.4 Glare

No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond the lot lines onto neighboring properties, or onto any street.
- 58.5 Hazardous Activities
  - 58.5.1 No activities that emit dangerous radioactivity, at any point; no electrical disturbance adversely affecting the operation at any point, of any equipment, other than that of the creator of such disturbance, shall be permitted.
  - 58.5.2 All activities that involve hazardous materials at any point shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.
- 58.6 Hazardous Materials Storage
  - 58.6.1 All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes, and potentially harmful raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike that shall be high enough to contain a volume of liquid kept within the storage area, at least equal to one hundred ten (110) percent of the capacity of the container(s), so that such liquid shall

not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, may be exempted from this requirement.

- 58.6.2 All storage of hazardous materials, at any point, shall be provided with adequate safety devices against fire and explosion and adequate fire-fighting and fire-suppression devices and equipment.

58.7 Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to the intermittence, beat frequency, shrillness or volume.

58.8 Stormwater Management

- 58.8.1 To the extent feasible, measures for run-off from impervious surfaces should be designed to meet the following objectives in an appropriate manner:

58.8.1.1 Prevent non-point sources pollution from urban runoff to streams, water bodies or groundwater;

58.8.1.2 Prevent flooding of neighboring or other down-gradient properties; and

58.8.1.3 Promote recharge of groundwater aquifers, while preventing pollutants from entering groundwater.

Appropriate recharge or detention methods may include: detention basins; vegetated swales; filter media; oil/water separators or other similar methods. Stormwater runoff design shall be in harmony with existing regulations set forth by the City of Leominster and the Commonwealth of Massachusetts.

58.9 Vibration

No offensive vibration shall be permitted at any time.



## ***ARTICLE IX: OPEN SPACE COMMUNITY DEVELOPMENT REGULATIONS***

### ***Section 22-59. Intent***

The purpose of an Open Space Community Development is to:

- 59.1 Allow for greater flexibility and creativity in the design of residential subdivisions.
- 59.2 Encourage the permanent preservation of open space, agricultural lands and other natural resources.
- 59.3 Maintain the traditional New England character and land use pattern in which clustered communities connect with open spaces and farmland.
- 59.4 Facilitate the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.
- 59.5 Encourage a development that uses less land for housing development thereby conserving more open land.

The Open Space Community shall be permitted by **right** in the Rural Residence/Agricultural (RRA) and Residence A/Agricultural (RAA) Districts, **and by Special Permit in the Water Supply Protection District.**

### ***Section 22-60. Design Requirements***

A design concept plan, prepared by a professional landscape architect, shall be submitted to the Planning Board for review. Provisions of RRA and RAA may be modified as indicated below when authorized by the Planning Board subject to all other requirements in this and all pertinent requirements of the Zoning Ordinance and Subdivision Regulations:

- 60.1 **Minimum Tract Sizes.** A tract of land to be developed shall be not less than **two (2)** acres in size, and shall be in one ownership or shall be the subject of an application signed jointly by the owners of the entire tract. The maximum allowable built area per tract shall be 35 percent (35%).
- 60.2 **Density and Lot Area.** In no case shall the number of dwellings permitted on a tract of land exceed a number that would have been permitted were the district regulations complied with fully. This density maximum is contained in the appropriate district regulations. All wetlands and floodplains shall be excluded from the parcel in calculating the allowable density. The following dimensional requirements shall apply. These requirements reflect developments where individual lots are created as well as developments where all land is kept under common ownership.

Separate Lots			Commonly Owned				
<u>District</u>	<u>Lot Area</u>	<u>Minimum Lot Width</u>	<u>Minimum Yard Requirements</u>				<u>Minimum Distance Between Buildings</u>
			<u>Front</u>	<u>Side</u>	<u>Rear</u>	<u>Frontage</u>	
RRA	<b>15,000</b>	85	10	15	15	60	30
RAA	<b>10,000</b>	75	8	10	10	30	20

The yard requirements shall not be reduced from those specified in the District. Minimum lot width shall be measured at building line.

60.3 Permitted Uses. Single family detached dwelling.

60.4 Utilities. Each lot shall be serviced by a municipal water service and a municipal sewer. On-site disposal systems may only be permitted if a municipal sewer is not available and if, prior to granting the Special Permit, the Board of Health reports that each lot has passed a satisfactory percolation test and soils examination or that the Board of Health reports that the tract has been sufficiently tested to assure that the lots can comply with its regulations for disposal systems.

60.5 Common Land.

60.5.1 The area of Common Land shall equal at least 25% of the total area of the Open Space Community Development tract. Such land shall have a shape, dimension, character and location suitable to assure its use for park, recreation, conservation or agricultural purposes by all the residents of the development. No more than 50% of the minimum required Common Land shall be situated within the floodplain or wetland. Each parcel of Common Land shall have at least 50 feet of frontage and no structure shall be constructed thereon in excess of 15 feet in height nor shall the maximum lot coverage, including paved areas, exceed 10% without Planning Board approval.

60.5.2 Provision shall be made so that the Common Land shall be readily accessible to the owners and occupants of the lots in the Open Space Community Development.

60.5.3 Subdivision of the common land is prohibited, and a notation to this effect shall be shown on the Definitive Subdivision Plan. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected but shall not exceed five percent (5%) coverage of such common land.

60.5.4 The Open Land may be preserved and owned as follows:

60.5.4.1 Common land may be conveyed to a homeowners association owned by the owners of lots within the development. If such a Community Association is utilized, ownership thereof shall pass with conveyances of lots in perpetuity.

60.5.4.2 The common land may be conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space.

60.5.4.3 The common land may be conveyed to the City of Leominster, at no cost, and be accepted by the City Council for open space, agricultural or natural resource protection use. Such conveyance shall require City Council approval.

- 60.5.5 In all cases a perpetual restriction of the type described in MGL, Chapter 184, Section 31 (including future amendments thereto and corresponding provisions of future laws) running to or enforceable by the City shall be recorded in respect to such land. Such restriction shall provide that the Common Land shall be retained in perpetuity for one or more of the following uses: conservation, agriculture, recreation or park. Such restriction shall be in such form and substance as the Planning Board shall prescribe and may contain such additional restrictions on development and use of the Common Land as the Planning Board may deem appropriate.
- 60.5.6 In order to ensure that the homeowners association, non-profit organization or trust will properly maintain the Common Land, an instrument(s) shall be recorded at the Worcester County Registry of Deeds (Northern District) which shall, as a minimum, provide:
- 60.5.6.1 A legal description of the Common Land;
- 60.5.6.2 A statement of the purposes for which the Common Land is intended to be used and the restrictions on its use and alienation;
- 60.5.6.3 The type and name of the homeowners association, non-profit organization or trust that will own, manage and maintain the common Land;
- 60.5.6.4 If a homeowners association is the method of ownership of the common land, a list of each owner of a dwelling in the Open Space Community Development and a provision that such ownership or beneficial interest shall be appurtenant to the dwelling to which it relates and may not be conveyed or encumbered separately there from;
- 60.5.6.5 Provisions for the number, term of office, and the manner of election to office, removal from office and the filling of vacancies in the office of directors and/or officers of the homeowners association, or non-profit organization or trustees of the trust;
- 60.5.6.6 Procedures for the conduct of the affairs and business of the homeowners association, or non—profit organization or trust, including provision for the calling and holding of meetings of members and directors and/or officers of the homeowners association and provisions for quorum and voting requirements for action to be taken. In the case of a homeowners association, each owner of a dwelling shall have voting rights proportional to his/her ownership;
- 60.5.6.7 Provision for the management, maintenance, operation, improvement and repair of the Common Land and facilities thereon, including provisions for obtaining and maintaining adequate insurance. In the case of a homeowners association, there shall be provisions for levying and collecting from the dwelling owners common charges to pay for expenses associated with the Common Land, including real estate taxes. It shall be provided that common charges are to be allocated among the dwelling owners in proportion to their ownership. There shall be a provision that failure to pay the common charge shall result in a lien against the real estate that shall have priority over all other liens with the exception of municipal liens and first mortgages of record; and
- 60.5.6.8 The method by which such instrument or instruments may be amended.

## ***Section 22-61. Plan Requirements and Application Procedures***

### **61.1 Application Procedure**

- 61.1.1 As a condition of approval, the applicant shall demonstrate to the Planning Board that the proposed development will result in a desirable and stable residential environment and that both the benefits to the City and the improved design justify modification of the basic district regulations.
- 61.1.2 Each application for **subdivision approval** hereunder shall be accompanied by a plan in duplicate of the Open Space Community Development prepared in accordance with the specifications of the Planning Board for preliminary subdivisions. A separate grid plan must be submitted showing the subdivision design in conformance with the zoning lot area requirements for the appropriate residential district.
- 61.1.3 An application for an Open Space Community Development within the Water Supply Protection District shall include a narrative description that demonstrates that the requirements for obtaining a Special Permit in the Water Supply Protection District can be met.**
- 61.1.4 **An approval for an Open Space Community Development** issued hereunder by the Planning Board is primarily an authorization for the use of lots which have less than the normal minimum area or frontage. Approval by the Planning Board of a Definitive Subdivision Plan for the area will be required as set forth in the Subdivision Regulations, including the approval of street and utility systems.
- 61.2 Submission of Subdivision Plan. In connection with the submission of a subdivision plan for Planning Board approval under the Subdivision Control Law or, if no such approval is required after consultation with the Planning Board, any person who desires an Open Space Community Development shall submit an application in writing in such form as the Planning Board may require which shall include plans meeting the requirements set forth in the Subdivision Rules and Regulations of the Planning Board and such additional information as the Planning Board may require, including:
- 61.2.1 A development statement consisting of a petition, a list of parties in interest, the names of the development team and a description of the tract and the development, including the size of the tract, number of lots together with sufficient information to make a determination on the number of permissible lots, the size of the Common Land parcels, including the area and percent of any Common Land zoned Floodplain/Wetland District and a development schedule for all site construction, including the projected completion date of Common Land improvements.
- 61.2.2 Copies of all proposed instruments are to be recorded with the plans, including the Common Land perpetual restriction, the deed, and the membership of the homeowners association, non-profit organization or trust.
- 61.3 Conditions. The Planning Board may impose as a condition that the Common Land shall be conveyed, free of any mortgage interest or security interest and subject to a perpetual restriction of type described above, prior to the Planning Board's release of any lots from the subdivision restriction covenant or, if there is no such covenant, prior to the Director of Inspections issuance of a building permit for any lot. The petitioner shall provide the Planning Board with satisfactory assurance of said conveyance and recording in the form of copies of the recorded instruments bearing the recording stamp.

## ***Section 22-62. Amendments***

- 62.1 Minor Revisions. Following the granting **of an approval** by the Planning Board under this Section, it may for good cause shown amend the plan solely to make minor changes in lot lines consistent with the **Definitive Plan**, provided, however, that no such amendment shall:
- 62.1.1 Grant any reduction in the size or change in location of the Common Open Land as provided in the **approval**;
  - 62.1.2 Grant any change in the layout of the ways as provided in the **approval**;
  - 62.1.3 Increase the number of lots as provided in the **approval**; or
  - 62.1.4 Decrease the dimensional requirements of any lot below the minimum permitted by this Ordinance.
- 62.2 Changes. Any change in the number of lots, the layout of ways, the Common Land and its ownership or use, or any other conditions stated in the original **approval** shall require a new **Subdivision Plan** issued in accordance with the provisions of this Ordinance.

**NOTE: THIS SECTION IS NEW AND REPLACES WHAT WAS ORIGINALLY IN THE ORDINANCE**

## ***ARTICLE XI: OFF-STREET PARKING AND LOADING***

### ***Section 22-63. Objectives, Applicability***

*NOTE: The following terms relative to off-street parking and loading are defined in Definitions: driveway, interior drive, maneuvering aisle, motor vehicle trip, parking lot, and unit parking depth.*

- 63.1 Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:
  - 63.1.1 Promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
  - 63.1.2 Promote more efficient utilization of on-street curbside parking;
  - 63.1.3 Reduce hazards to pedestrians upon public sidewalks;
  - 63.1.4 Protect adjoining lots and the general public from nuisances and hazards such as: (1) noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles, (2) glare and heat from parking lots, (3) a lack of visual relief from expanses of paving, and (4) accelerated runoff of surface water from land covered by impervious materials.
- 63.2 No building permit or certification of occupancy shall be issued for the erection of a new building, the enlargement of an existing building, the development of a use not located in a building, or the change from one type of use to another (see Sections 22-69 to 22-71), unless off-street parking spaces or loading bays are provided in accordance with this section.

### ***Section 22-64. Parking, Loading Plan Required***

- 64.1 Each application for a Special Permit or Site Plan Approval, or where needed, for a building permit, shall be accompanied by an off-street parking and loading plan showing:
  - 64.1.1 The number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces including ADA accessible spaces, and loading bays, that shall comply with this Ordinance and accepted engineering practices;

- 64.1.2 The construction details and the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening, and lighting;
- 64.1.3 The location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back;
- 64.1.4 Where landscaping is to be provided, the species and size of plant materials; and
- 64.1.5 A summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard, compact and ADA accessible parking spaces and the number of loading bays.

Such plan shall be a drawing at a scale of 1" = 20' or 1" = 40' or at such other scale as the Director of Inspections may approve. Where necessary, the Director of Inspections may require that the owner or operator of a use, building, or establishment furnish a statement as to the number of employees working at the use, building, or establishment, or the number of motor vehicle trips (by type of motor vehicle) that are made to and from the use, building or establishment.

### ***Section 22-65. Number of Parking Spaces***

***(Note that this section is new and replaces the original parking table)***

- 65.1 The number of parking spaces indicated for the corresponding types of uses shall be provided in all zoning districts, except as otherwise indicated. See the Downtown Overlay District (Section ) for specific parking requirements in that district.

The symbols under the column parking factor shall mean: s.f.: square feet of net floor area.

<b>Type of Use</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces</b>
<i>Residential Uses</i>		
Accessory apartment	1/apartment or unit	Same as minimum
Continuing Care Retirement Community/Assisted Living Facility	0.4 spaces per dwelling unit	0.5 spaces per dwelling unit
Dwelling unit in single family detached structure	2/dwelling unit	Same as minimum

<b>Type of Use</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces</b>
Dwelling unit in multi-family dwelling	1.5/dwelling unit with 2 or fewer bedrooms, 2/dwelling unit with more than 2 bedrooms	Same as minimum
Conversion of a single-family residence to a two-family residence	3 spaces	Same as minimum
Conversion of a two-family residence to a three-family residence	5 spaces	Same as minimum
Nursing or convalescent home	1 space per each three beds	1 space per each two beds
<i>Institutional, Educational, &amp; Recreational Uses</i>		
Cemetery	1 parking space for each full-time employee	Same as minimum
Church, temple, auditorium club, lodge, community center	1 per each 10 seats in the largest assembly area	Same as minimum
Day care center, family day care home, nursery school, kindergarten, and school or other educational institution for persons less than 14 years of age	1 parking space for each employee plus one space for each 15 clients of the licensed capacity. Off-street space for loading and unloading shall consist of an additional one space for each 12 clients of the licensed capacity	1 parking space for each employee, plus one space for each six clients of the licensed capacity. Off-street space for loading and unloading shall consist of an additional one space for each 12 clients of the licensed capacity.
Schools or other educational institution for persons age 14 and over	1 parking space for each employee, plus one space for each eight students based on the licensed capacity	1 parking space for each employee, plus one space for each five students based on the licensed capacity



<b>Type of Use</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces</b>
Hospital	see Health Care Overlay District [One for every dentist, physician nurse and other employee, and 3.5 in addition for visitors, per every dentist or physician rendering services on the premises.]	Same as minimum
Clinic or medical building, including medical offices as an accessory use in a residential dwelling, including veterinary offices	1 per 250 s.f. of gross floor area, excluding basement storage area	1 per 200 s.f. of gross floor area, excluding basement storage area
Public library, art gallery, museum and other non- recreational public facility	1 per each 600 s.f. of floor area open to the public	Same as minimum
Outdoor recreation	1 parking space for every four visitors expected at designed capacity for peak use.	1 parking space for every two visitors expected at designed capacity for peak use.
Indoor recreation	1 parking space for every 200 s.f of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the facility, if retail is provided. An additional 40 spaces per athletic field.	1 parking space for every 150 s.f of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the facility, if retail is provided. An additional 50 spaces per athletic field.
<i>Agricultural Uses</i>		
Greenhouse, nursery, roadside stand	1 per 1,000 s.f. of display area whether indoors or outdoors	Same as minimum

<b>Type of Use</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces</b>
<i>Office Uses</i>	1 parking space for each 300 s.f. of gross floor area, excluding basement storage area.	1 parking space for each 250 s.f. of gross floor area, excluding basement storage area.
<i>Retail Businesses</i>	1 parking space for each 250 s.f. of gross leasable area.	1 parking space for each 200 s.f. of gross leasable area.
Automotive Service Garage	2 per bay	3 per bay
Barber Shop, Hairdresser	1 per chair	Same as minimum
Funeral Home	1 per 4 seats in the largest assembly area	Same as minimum
Health Club	1 parking space for every 200 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the health club, if retail is provided.	1 parking space for every 150 s.f. of gross floor area. An additional one parking space for every 350 s.f. of retail space included in the health club, if retail is provided.
Restaurant	1 space for each three seats or two parking spaces for each 150 s.f. of gross floor area, excluding basement storage area, whichever is greater.	2 spaces for each three seats or two parking spaces for each 150 s.f. of gross floor area, excluding basement storage area, whichever is greater.
Restaurant with Fast Food/Take-Out	1 space for each 150 s.f. of customer service or dining area, plus three stacking spaces for the drive-through window. One parking space for each 200 s.f. if there is no customer service or dining area.	1 space for each 150 s.f. of customer service or dining area, plus three stacking spaces for the drive-through window. One parking space for each 150 s.f. if there is no customer service or dining area
Theater, other Public Assembly	1 per 6 seats	1 per 5 seats

<b>Type of Use</b>	<b>Minimum Parking Spaces</b>	<b>Maximum Parking Spaces</b>
Hotel, Motel	1 per guest room, plus 1 per each 500 s.f. of meeting, banquet, or restaurant area	1 parking space for each guest room, plus one parking space for each 400 s.f. of meeting, banquet or restaurant area.
<i>Industrial Uses</i>		
Industrial, manufacturing and other uses	1 parking space for each three employees employed, plus one parking space for every company-owned and operated vehicle, plus parking spaces for customer vehicles as determined adequate by the Building Inspector.	1 parking space for each two employees employed, plus one parking space for every company-owned and operated vehicle, plus parking spaces for customer vehicles as determined adequate by the Building Inspector.
Research and development	One parking space for each 500 s.f. of gross floor area, excluding basement storage area.	One parking space for each 300 s.f. of gross floor area, excluding basement storage area.
Warehouse	1 per 3,000 sq. feet of gross floor area	Same as minimum
All Other Permitted Uses	As needed, usually 1 per each full time employee	

***Section 22-66. Rules for Interpretation of Sections 22-69 and 22-71***

- 66.1 Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof shall require one parking space but after the first such parking space, only a fraction of one half or greater shall require an additional space or bay.
- 66.2 Where the requirement is stated “as needed,” the applicant for a permit shall estimate the number of parking spaces required to serve the use and shall provide such number; the Director of Inspections shall verify that the number is adequate and shall, if necessary, order that additional spaces be provided.
- 66.3 To simplify the determination of net floor area, 80 percent of the gross floor area may be used.
- 66.4 Where off-street parking serves two or more activities that are different types of uses, including two or more activities that are part of the same principal use, the number of spaces provided shall be the sum of the requirements for the various individual uses which shall be determined, by computing the number of parking spaces and loading bays required for the various individual uses and by then adding those numbers including any fractional number. Parking spaces for one activity or use shall not be considered to be providing the required parking for any other use, except as provided in subsection 77.5.
- 66.5 Where the requirement is based on the number of employees, the number of spaces shall be based on the number of employees in the peak period, which shall be at least three hours per day for at least three days per week.
- 66.6 Where fixed seats are not used in a place of assembly, each 40 square feet of floor area in the largest assembly area shall equal one seat.
- 66.7 Where uses are of the open air type and are not enclosed in a structure, each square foot of lot devoted to such use shall be considered to be equivalent to one-fifth of a square foot of net floor area.
- 66.8 Required off-street parking spaces which, after development, are later dedicated to and accepted by the City and are maintained by the City for off-street parking purposes, shall be deemed to continue to serve the uses or structures for which they were originally provided.

***Section 22-67. Parking Spaces for Persons with Disabilities***

- 67.1 Specially designated parking spaces for the persons with disabilities shall be provided, as follows:

<b>Total Number of Spaces</b>	<b>Accessible Spaces</b>
3–25	1 space
26–40	5% of total spaces but not less than 2
41–100	4% of total spaces but not less than 3
101–200	3% of total spaces but not less than 4

201–500	2% of total spaces but not less than 6
501–1000	1.5% of total spaces but not less than 10
1001–2000	0.75% of total spaces but not less than 20

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- 67.2 Accessible spaces shall be clearly identified by a sign indicating those spaces are reserved for disabled persons. Such spaces shall be located in that portion of the parking lot nearest to the entrance to the use or structure that the parking lot serves and designed in accordance with standards established by the Americans with Disabilities Act.

### ***Section 22-68. Location of Off-Street Parking, Loading Bays***

- 68.1 Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except that some parking spaces may be provided on a separate lot as provided in [Section 22-77](#).
- 68.2 No area may be utilized and counted as both a required parking space and a loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading shall be counted for loading purposes.
- 68.3 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.
- 68.4 Off-street parking spaces required for two or more buildings, uses, or establishments may be provided in a common lot where it is evident that such facilities will continue to be available for the several buildings, uses, or establishments, and if the Board of Appeals shall grant a Special Permit therefore in accordance with [Section 22-77](#).

### ***Section 22-69. Driveways***

- 69.1 Each parking space and loading bay shall be connected by a driveway to a street or to an interior drive that leads to a street. Parts of a driveway may be partly on another lot or may straddle a lot line provided the Board of Appeals grants a Special Permit under [subsection 77.3](#).
- 69.2 In all districts, the number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.
- 69.3 Driveways in all residential districts shall not extend closer than three feet to the side lot line. A strip of greenery of not less than three feet shall be provided along the full length of each such driveway and the property line.
- 69.4 Common driveways shall service no more than two lots which have the required frontage and roadway access.

## Section 22-70. Driveways Serving Non-Residential Districts

No private way or driveway that serves a non-residential use in a non-residential district shall be built through a residential district.

## Section 22-71. Design Standards

It is the intent of this Section that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this Section. The off-street parking and loading plan required by this Section shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Director of Inspections may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this Section.

71.1 Exception for Single-family and Two-Family Dwellings. The provisions of subsections 76.2.5 (backing into a public street), 76.5 (marking of pavement), 76.6 (moving of vehicles) and 76.7 (surfacing, drainage) shall not apply where parking is provided for any single-family or two-family dwelling.

71.2 Dimensions

71.2.1 On any lot in any district, parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table and elsewhere in this subsection:

**Minimum Parking Space and Aisle Dimensions for Parking Lots (in feet)**

Angle of Parking, in degrees (°)	Width of Parking Space			Depth** of Parking Space			Width of Maneuvering Aisle			Unit Parking Depth		
	<u>S</u>	<u>C</u>	<u>A</u>	<u>S</u>	<u>C</u>	<u>A</u>	<u>S</u>	<u>C</u>	<u>A</u>	<u>S</u>	<u>C</u>	<u>A</u>
61–90°	9*	8.5*	12*	19	15	19	22	20	22	60	50	60
46–60°	9	8.5	12	19	15	19	16	15	16	56	48	56
45°	9	8.5	12	19	15	19	14	13	14	53	47	54
Parallel	8	8	12	22	18	22	12	12	12	n/a		

S = Standard C = Compact A = Accessible

\* Where one or both of the long sides of a parking space abuts a wall or similar obstruction, the width shall be 12 feet.

\*\* Up to 2 feet of unpaved landscaped space may be included in the depth provided there are no obstructions to the vehicle's overhang.

71.2.2 To be counted as a required parking space, a parallel parking space shall have maneuvering space at least 20 feet deep in front of it in an aisle parallel to and abutting such parking space.

- 71.2.3 Where columns of a building or structure are located in a parking lot (such as a parking garage under a building) no part of a column may be within three feet of a maneuvering aisle or within the minimum dimensions of a parking space as set forth in subsection 76.2.1.
- 71.2.4 The width of a driveway for a one-way use shall be a minimum of eight feet and for two-way use shall be a minimum of 18 feet and a maximum of 30 feet, as measured at the setback line.
- 71.2.5 Where access or egress is provided for a parking lot (five or more spaces), or one or more loading bays, such access or egress shall be so arranged to provide a circulation system or maneuvering space on the lot so that all vehicles may exit from and enter onto a public street by being driven in a forward direction and no vehicle shall be required to enter or leave by backing and no vehicle shall have to stand within a street right-of-way waiting to enter the lot.
- 71.3 Number of Compact Car Spaces. In parking lots containing more than 20 spaces, not more than 33% of such spaces may be designated for use by compact cars. Such compact car spaces shall be located in one or more continuous area, and shall not be intermixed with spaces designed for standard cars and shall be clearly designated by signs or pavement marking. In parking lots with 20 or fewer parking spaces, spaces meeting the minimum dimensions for compact cars are not permitted.
- 71.4 Marking. In a parking lot or loading area the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent. Where fifty (50%) percent or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in an apartment building, parking spaces for guests or visitors to the use or establishment, not to exceed ten (10%) percent of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building that it serves.
- 71.5 Availability, Snow Storage. To ensure the availability and utilization of required parking spaces and loading bays on a year-round basis: No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment. A strip of land not less than five feet in width shall be provided on at least two sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or bypassing over any other space or bay. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.
- 71.6 Surfacing, Drainage. All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership.
- 71.7 Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be ten (10%) percent. The maximum grade of any outdoor driveway shall be twelve (12%) percent.

- 71.8 Parking areas shall include provisions for the "parking" of bicycles in bicycle racks in locations that are safely segregated from automobile traffic and parking. For parking areas of ten or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces or fraction thereof.
- 71.9 Landscaping.
- 71.9.1 Parking areas greater than twenty-five (25) parking spaces shall be separated by landscaped islands of eight (8) to ten (10) feet in width. In addition, a minimum of one (1) shade tree shall be planted for every three (3) parking spaces required or built, within appropriate locations on the lot(s). The plan shall show the location of plantings, including use of plantings to buffer neighboring properties, and along the street frontage and pedestrian ways. Trees planted within parking areas shall be planted in protected pervious plots of at least sixty (60) square feet of area.
- 71.9.2 In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than five feet in width shall be provided. The landscaped strip may be provided either: (1) between the rows of parking spaces parallel to the aisle or (2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each strip at least three trees and in all such strips not less than one tree for every eight parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- 71.9.3 Trees required by this Section shall be at least two inches diameter at a height four feet above the ground at the time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season. To the extent practicable, existing trees shall be retained and used to satisfy this Section.

### ***Section 22-72. Exceptions, Special Permits***

In accordance with **Section 22-13**, and where consistent with the objectives set forth in **subsection 67.1**, the Planning Board may grant a Special Permit modifying the requirements of this Section in the following cases:

- 72.1 Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces than is required by **Sections 22-69 or 22-71**, the number of such spaces required may be reduced by not more than 50 percent. An applicant shall submit documentary evidence that the parking experience of the use justifies a lesser number of spaces. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one half of the difference between the spaces required and the lesser number provided. The off-street parking plan shall show how the reserve area would be laid out in compliance with this Section. The term of a Special Permit for such reduction initially may not exceed two years, but may be granted subsequently for a longer period upon verification that the parking is adequate. A Special Permit granted under this authority shall lapse upon change to a different type of use and shall not be considered to constitute any non-conformity.
- 72.2 Where the design of a parking lot differs from the design provisions of **Section 22-76** provided such design complies with the intent of **Section 22-76**, is prepared by a professional engineer or landscape architect, and provided such design is approved in writing by the Department of Public Works.



72.3 To allow a driveway on one lot to lead to a parking space on another lot, or to allow a driveway to straddle the lot line and serve a parking space on two or more lots, both in a Commercial district, provided a binding agreement, satisfactory in form to the City Attorney, is executed and is filed in the Registry of Deeds of Worcester County. Where the driveway is located in a planned residential development for which a Special Permit with Site Plan Review (SPS) is required and the Planning Board is the SPGA, the Planning Board may grant the Special Permit for the driveway location.

72.4 In any commercial or industrial district, allowing required parking spaces to be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted provided: (1) all such parking spaces are within 750 feet walking distance of an entrance to the building which they serve, (2) all such spaces are for employees only and not clientele, and (3) where such lot is not in the same ownership, a lease guaranteeing long term use of such lot, and satisfactory in form to the City Attorney is executed and filed in the Registry of Deeds of Worcester County. In a BB district all such parking spaces may be within 1200 feet walking distance of the entrance of such building if located on a lot within the BB district.

72.5 Shared parking. Where two or more activities or uses provide for required parking or loading in a common parking lot, consideration may be given to the hours of usage of the proposed use, hours of usage of other uses, amount of shared parking with other uses, as well as other relevant information to assist the Planning Board in determining the need for additional parking for motor vehicles.

1. The Planning Board may require the applicant to provide a parking study with all information deemed necessary to render a decision. Said information shall include, but not be limited to:
  - the hours of operation and parking demand for each use;
  - the hours of peak demand for parking;
  - a description of the character of the land use and the parking patterns of adjacent uses;
  - an estimate of the anticipated turnover in parking space use over a 24 hour period of time; and
  - a site plan showing the shared use spaces in the lot and the walking distance to the uses sharing the lot.

Relief may be granted provided that it is demonstrated that the additional demand for such spaces can be reasonably met without placing an undue burden on existing facilities already relying on such spaces under the following conditions:

1. Allow parking areas to be shared with adjoining businesses based upon having peak user demands at different times provided that all businesses sharing parking are located on the same lot.
2. On-street parking spaces within a radius of two hundred (200) feet may be counted as part of the required parking need.
3. Parking spaces on a separate lot or lots within a radius of six hundred (600) feet, measured from the lot line of the principal use, may be counted.

4. A reciprocal agreement shall be executed by all parties concerned that ensures the long-term joint use of such common parking, and that a copy has been submitted, and is acceptable to the Planning Board.

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## ***ARTICLE XII: SIGN REGULATIONS***

### ***Purpose***

It is the purpose of this ordinance to place such limitations on the display of all such signs as will assure the following goals are met:

- A. to encourage the effective use of signs as a means of communication in Leominster;
- B. to maintain and enhance the aesthetic environment and Leominster's ability to attract sources of economic development and growth;
- C. to improve pedestrian and traffic safety;
- D. to minimize the possible adverse effect of signs on nearby public and private property; and
- E. to enable the fair and consistent enforcement of these sign restrictions.
- F. to avoid excessive competition among sign displays in their demand for public attention
- G. that the design of the sign respect and be compatible with the architecture of the building, surrounding buildings, and the general character of the surrounding neighborhood.
- H. that signs will be adequate, but not excessive for the intended purpose of identification, protection or advertisement.

Any sign placed on land or on a building for the purposes of identification or protection of the same or for advertising a use conducted thereon shall be deemed to be accessory and incidental to such land, building or use.

With respect to signs advertising business uses, such regulations have been devised after considering, among other matters, shopping habits, extent of trade area, and means of access to such uses.

### ***Section 22-73. Applicability***

All signs shall comply with applicable requirements of the Massachusetts Building Code (780 CMR), the provisions of **Sections 29-33**, inclusive, of Chapter 93, and to Chapter 93D of the MGL Chapter 93D Sections 42-132 and 42-133 and the rules and regulations of the superintendent of wires in accordance with Article 600 of the Massachusetts Electrical Code, as they may be amended. Whenever the requirements of such regulations differ from those prescribed in this Section, the requirement that imposes the greater restriction or higher standard shall govern. No signs shall be erected, displayed, or maintained within the City, except those specifically provided for hereinafter.

**The effect of this ordinance as more specifically set forth herein, is:**

- A. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this ordinance;**
- B. To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;**
- C. To prohibit all signs not expressly permitted by this ordinance; and**
- D. To provide for the enforcement of the provisions of this ordinance.**

**Signs placed or erected by governmental agencies on the premises of governmental property and uses shall not be included herein. However, this section shall be used as a guide in the placement or erection of any governmental agency signs.**

#### ***Section 22-74. Permit Procedure***

- 74.1 No sign, unless specifically exempted by this Section, shall be erected without a permit from the Director of Inspections, application for which shall be accompanied by the signature of the owner of the property or his agent, scale drawings, certificate of insurance as required herein. The location, type and area of all signs on the premises are to be submitted in addition to information required for the sign for which the permit is being sought. Permits shall be required for all temporary signs not located inside a building.
- 74.2 Application for Permit. The owner or lessee of the premises on which a sign is to be erected shall file the following with the Director of Inspections:
  - 74.2.1 Application for a permit on appropriate forms furnished by the Director of Inspections including the written consent of the owner of the premises concerned or of his authorized agent.
  - 74.2.2 Full name, residence and business address of the owner of the property, of the lessee if any, and of any authorized agent to whom notices may be sent.
  - 74.2.3 Locations, position, and dimensions of sign.
  - 74.2.4 Such plans, structural drawings and specifications as the Inspector may require for temporary examination and permanent record.

#### ***Section 22-75. Signs Not Requiring Permit***

- 75.1 The following signs shall be allowed by right without the necessity of a permit.
  - 75.1.1 Signs erected by or on the order of a governmental agency when limited to governmental or public safety purposes, and excluding any advertising.
  - 75.1.2 Names of buildings, date of erection, monumental citations and commemorative tablets, when made a permanent and integral part of a building, not to exceed ten (10) square feet.

- 75.1.3 Banners or flags emblematic of or issued by national, state, or local governments.
- 75.1.4 Signs indicating the name and address of the occupant of a residential dwelling, not to exceed two square feet. Where a permitted accessory use or occupation exists, the sign for such use shall not exceed two (2) square feet.
- 75.1.5 Window signs, in nonresidential buildings, not to exceed twenty (20) percent of the area of the window.
- 75.1.6 Customary signs on gasoline pumps indicating in usual size and form the name and type of gasoline and the price thereof.
- 75.1.7 A-frame or banner-stand signs located in the BA, BB, C, and I zones, no larger than two (2) feet by four (4) feet. These signs shall be professionally lettered and properly weighted down. Any sign located on a sidewalk shall have a minimum of three (3) feet of clearance for pedestrian traffic and shall be moved inside at the end of the business day.**
- 75.1.8 Clocks and thermometers displaying no information other than the time and temperature.
- 75.1.9 Holiday decorations and lights when in season.
- 75.1.10 Signs not to exceed two (2) square feet that indicate warnings, hazards, or public conveniences such as “No Trespass,” “Beware of Dog,” or rest room signs.
- 75.2 All other signs permitted in this Article require a permit from the Director of Inspections in order to be erected.

## ***Section 22-76. General Sign Regulations***

**All signs must meet the following restrictions regardless of zoning district.**

### **76.1 Sign Location**

**Signs shall be located so as not to detract from a building’s architecture. A sign shall not be placed such that it covers the view of architectural elements such as cornices, columns, arches, details, or other such building features or ornamentation. Signs may not extend above the building’s roofline and/or the wall upon which the sign is located, and may not exceed maximum sign height. A business’ wall sign may only be placed on the front (or side, if on a corner) of the building in which the advertised business resides.**

### **76.2 Style and Design of Sign**

**Lettering, shape, and color employed in a sign shall be compatible with the form, color, and materials of the building that the sign identifies. Letters shall be carefully formed and properly spaced, to be neat and uncluttered. Generally, no more than 60% of the total sign area shall be occupied by lettering.**

### **76.3 Signs for Different Businesses**

Signs for different businesses within the same building, or for a collection of buildings that form a retail, commercial, or industrial center, shall be of similar style and design, but not necessarily the same color scheme.

76.4 **Sign Message**

A sign's message should clearly and simply identify a business. A sign should include lettering and symbols to indicate such primary information as name, function and/or the address of a business. If space permits, secondary information may be included in the sign message. Secondary information includes: service or facility conducted on the premises, the year the business was established, a slogan, hours of operation, website address, and time and temperature, provided that the sign meets all requirements provided in this section.

76.5 **Trademark**

The use of pictorial symbols or logos is encouraged. However trademarks may occupy no more than 30% of the area of a sign, unless sale of the specific product is the major business conducted on the premises, in which case 100% of the sign can be occupied by the trademark.

76.6 **Illumination**

Signs may be illuminated either internally through the use of some sort of translucent materials with lights behind or with neon tubing or externally through mounting of incandescent or fluorescent lamps on the building directed at the sign, provided that the type of illumination employed does not distract from the building's architecture and that the sign is not one specifically prohibited by this section. Colored lighting, open flame, or bare bulbs shall not be used. All lighted signs shall be lighted by continuous light and contain a factory-applied label supplied to the manufacturer and controlled by an approved testing agency.

76.7 **Calculations**

The following principles shall control the calculation of sign area and sign height.

**Calculation of Area of Individual Signs.**

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be calculated by the area contained entirely within the smallest square, circle, triangle or rectangle which completely encloses the outer extremities of all graphic material of a sign. This does not include any supporting framework or bracing.

**Calculation of Height.**

The height of a sign shall be calculated as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the

newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot be reasonably determined, sign height shall be computed on the assumption that the elevation of the nearest point of the crown of the public street along which the lot has frontage or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

#### Calculation of Area of Façade.

The area of a façade shall be calculated by means of the smallest rectangle that will encompass the extreme limits of the wall behind which the business or establishment is located.

76.8 Illumination, motion and noise

76.8.1 Signs shall be illuminated only by steady, stationary light directed solely at the sign or internal to it, without causing glare to motorists, pedestrians or neighboring premises.

**76.8.2** No sign or part of any sign shall flash, move or make noise, except such portions of a sign as consists solely of indicators of time or temperature **except as allowed in the Commercial and MU2 zones under Section 22-85 of this ordinance.**

76.8.3 No sign in RRA, RAA, RB or RC Districts shall be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless indicating an establishment open to the public during those hours.

76.8.4 No sign shall be erected so as to obstruct any door, window or fire escape on a building.

76.8.5 The limitations as to the number of signs permitted does not apply to traffic or directional signs that are necessary for the safety and direction of residents, employees, customers and visitors, whether in a vehicle or on foot, of any business, industry, or residence. Such signs shall not carry the name of any business or project.

76.8.6 No sign, except for a traffic regulatory or informational sign, shall be erected that uses the words “stop,” “caution,” or “danger,” or other similar words in such a manner as to present or imply the need or requirement or stopping or caution or the existence of danger, or which, for any reason in the opinion of the Chief of Police, is likely to be confused with any traffic regulatory or informational sign.

76.8.7 No sign shall contain red or green lights if such colors would in the opinion of the Chief of Police constitute a driving hazard.

76.9 Hazards prohibited

**76.9.1** **Moving signs. No swinging, flashing on and off or other animated signs and no revolving beacons or searchlights shall be permitted. This section shall not be construed so as to prohibit signs wherein the only movement is for the purpose of indicating time, temperature or changing message.**

**76.9.2** **Obstructing signs. No signs shall be erected, relocated or maintained so as to prevent free access to any door, window or fire escape.**

**76.9.3 Traffic hazards. No sign shall be erected or maintained so as in any way to create a traffic hazard or so as to obscure or make difficult the reading of signs or signals designed to regulate and control traffic.**

76.10 Height Regulations

76.10.1 No sign, together with any supporting framework, shall extend to a height above the maximum building height allowed in the district in which the sign is located. In any residential district, the top of a sign, together with any supporting framework, shall not extend above the roof line. In any other district, the top of a sign, together with any supporting framework, shall not extend more than eight (8) feet above the roof line. In the case of a building with a pitched roof, the eaves line of the building shall be considered the roof line.

76.10.2 Within two hundred feet of centerlines of intersecting streets, the bottom of any sign shall be at least eight feet above the mean ground level. **This section shall not apply to any business that is located across the street from the aforesaid intersection.**

76.11 Location requirements

76.11.1 No freestanding sign shall be located nearer to the street line than one-half the distance of the required front yard and shall in no instance be closer than ten feet from the street line. **If the Zoning Board of Appeals grants a variance for the above-reference requirement, they shall ensure that the bottom of any freestanding sign shall be at least eight (8) feet above the mean ground level.**

76.11.2 No sign shall be located in the required side or rear yard.

**76.11.3** No attached sign shall project more than twelve inches out from the wall to which it is attached except in Business B Districts, **except in any business district where there is insufficient frontage to erect a freestanding sign.**

76.11.4 No sign shall be posted directly on the exterior surface of any wall but rather shall be affixed to a substantial intermediary removable surface securely affixed to the structure.

76.11.5 No sign shall be posted upon any tree, bridge, fence, guidepost, or pole used for the transmission of electricity in the City.

76.12 Area requirements

76.12.1 Signs shall conform to all applicable area requirements for the zoning district in which they are located.

76.12.2 The area of a freestanding sign shall consist of the sum total of the area of all sides except in the case of parallel back to back signs, where the area shall be computed as that of one side.



## ***Section 22-77. Off Premises Signs***

Off premises signs shall be permitted only by Special Permit of the Board of Appeals, which shall assure that the sign complies with the following maximum requirements:

- 77.1 No such sign shall be erected or maintained in any Residence or Business A District, **except if permitted for a home occupation/office.**
- 77.2 No such sign shall be permitted unless at least fifty percent of the buildings for a distance of three hundred feet on both sides of a street which the sign faces are predominantly used for business, commercial or industrial uses.
- 77.3 No such sign shall be permitted with less than a minimum front yard setback of twenty-five feet from the line of a public way. The Board of Appeals may, however, require a setback of more than twenty-five feet.
- 77.4 No such sign shall be permitted that obstructs the view of vehicular traffic within a distance of two hundred feet from any point where the centerlines of public ways intersect.
- 77.5 No such sign shall be permitted within three hundred feet of any other visible off-premises sign, unless such sign is placed back to back with such other sign.
- 77.6 No such sign shall be permitted in an area as designated by the Board of Appeals as being of historic or scenic significance or as being such that existing signs of all types are so large or numerous that the erection of further off-premises signs would create or contribute to unsightly view from a public way, public park or reservation.
- 77.7 No such sign shall be attached to a building unless it complies with all requirements of this Article.
- 77.8 No such sign shall be permitted within three hundred feet of any church, synagogue, school, court house, public playground, hospital, public building, museum, public park or reservation or a permanently erected memorial to veterans of the armed forces.
- 77.9 No such sign shall be erected or maintained that projects more than thirty-five feet above the mean ground level directly below such sign.
- 77.10 **No person shall carry or hold business advertising signs off the business premises or on City property. These signs include, but are not limited to, any sign advertising going out of business sales.**

In addition to the above minimum conditions, the Board of Appeals may approve a Special Permit subject to other appropriate safeguards and conditions consistent with the purpose and intent of the Zoning Ordinance and Zoning Act.

**Governmental signs or signs promoting City run events and/or happenings shall be exempt from this provision.**

## ***Section 22-78. Temporary Signs***

- 78.1 A sign appertaining to campaigns, sales, promotions, drives or events of political, civic, philanthropic, educational or religious organizations will be permitted as follows:
- 78.1.1 Residential Districts. In the case of a political, civic, philanthropic, educational, or religious organization, one (1) temporary sign with an area not to exceed six (6) square feet shall be allowed per lot. No such sign shall be lighted **and such signs shall be removed within thirty days of the election or event.**
- 78.1.2 Non-Residential Districts. Two (2) temporary signs will be allowed for any non-residential use in a non-residential district. No single sign shall exceed twenty (20) square feet in area. No such sign shall be a lighted sign.
- 78.2 Temporary shall mean a period not exceeding 90 consecutive days, unless the Director of Inspections permits an extension of the 90 day period or unless otherwise provided in this section. No temporary sign shall be displayed longer than five months, except as otherwise provided by this section.
- 78.3 Temporary signs outside a building.
- 78.3.1 Temporary signs, as allowed under subsection 85.1 may be located outside of a building, provided that any such sign shall be securely affixed to a building or a freestanding sign structure.

- 78.4 Subdivision or construction signs. One unlighted sign, set back at least ten (10) feet from the street lot line, or one-half of the building setback distance, whichever is less, not to exceed an area of thirty-two square feet for residential property and sixty-four square feet for nonresidential property indicating parties involved in subdivision or construction on the premises; provided that it does not remain erected more than six months after the occupancy of the first structure.
- 78.5 For residential properties, one unlighted temporary sign offering premises for sale or lease for each parcel in one ownership shall be permitted provided: it shall not exceed six (6) square feet in surface area; and it shall be set back at least ten (10) feet from the street lot line or one-half of the building setback distance, whichever is less. A sign of thirty-two square feet is permitted for non-residential property pertaining to lease or sale of the premises. Real estate brokers may apply annually for permits to erect such signs throughout the City for the purposes of advertising the sale or lease of any property in the City.

### ***Section 22-79. Signs Permitted in Residence Districts***

- 79.1 No sign shall be erected or maintained in a Residence district except as provided in this section and except as hereinafter expressly provided:
- 79.1.1 For each dwelling within a residential building housing not more than two (2) families, there may be one sign displaying the name of the occupant and address of the premises permitted without a permit. Such sign shall not exceed one square foot, except where a permitted accessory use or occupation exists, it shall not exceed two (2) square feet.
- 79.1.2 For each residential building housing more than two (2) families, or in the case of a group of such buildings forming a single housing development, there may be one principal wall sign, not to exceed six (6) square feet, or one free-standing sign not to exceed six (6) square feet. In addition, there may be one secondary wall sign for each separate building in a group of such buildings that shall not exceed two (2) square feet.
- 79.1.3 There may be two (2) signs identifying churches, schools, and other institutional uses on each street frontage, one of which may not exceed twenty (20) square feet in area and one of which may not exceed ten (10) square feet in area. One sign per each street frontage may be freestanding and may be used for notices and announcements of services and events. In addition, if there are a group of buildings forming a complex or campus, there may be any number of additional signs located within the campus, not to exceed ten (10) square feet per sign.
- 79.1.4 There may be one wall sign, not to exceed twenty (20) square feet, for a valid nonconforming or permitted non-residential use. The Director of Inspections may permit one standing sign to identify a valid nonconforming or permitted non-residential use, however, such sign shall not exceed fifteen (15) square feet.
- 79.1.5 There may be signs indicating “entrance,” “exit,” “parking,” or the like, erected on the premises for the direction of persons or vehicles, not to exceed three (3) square feet per sign.
- 79.2 Regulation of Signs in Business, Commercial and Industrial districts

- 79.2.1 In Business A and B, Commercial, and Industrial districts, only those signs may be erected or maintained that are permitted without a permit in Section 22-80 which are allowed in a Residence district as provided in the previous section, or which comply with the following provisions:
- 79.2.1.1 **Principal signs. Except as provided in this Section for each business establishment there may be one principal wall sign not exceeding three (3) square feet for each foot of building frontage of the wall to which it is affixed or one hundred (100) square feet, whichever is less. In any case where a building exceeds fifty (50) linear feet they shall be allowed one extra square foot of signage for each linear foot over the fifty (50) linear feet stated above but not to exceed two hundred (200) square feet. Where a business establishment is located on a corner lot, there may be two (2) such principal wall signs. In particular instances, due to the nature of the use of the premises, the architecture of the building, or its location with reference to the street, the total allowable sign area of the principal wall sign, as specified in the formula above, may be divided between two (2) such wall signs which would together constitute the principal wall sign.**
- 79.2.1.2 **Where permission is granted for one freestanding sign, where the lot has frontage of 150 ft of less, the freestanding single use or main tenant sign shall not exceed one hundred (100) square ft. Any additional tenant signs located on the freestanding sign shall not exceed fifty (50) square ft each. Where the lot frontage exceeds one hundred fifty (150) ft, the freestanding sign single use or main tenant sign shall not exceed one hundred fifty (150) square ft. Any additional tenant signs located on this freestanding sign shall not exceed sixty (60) square ft.**
- 79.2.1.3 **For a lot located on a corner lot with at least one hundred fifty (150) ft of frontage on a second street, a second freestanding sign may be granted. Where permission has been granted for a second freestanding sign, single use or main tenant shall not exceed seventy (70) square ft. Any additional tenant signs located on this freestanding sign shall not exceed thirty (30) square ft. The distance between pole signs on a single lot must be a minimum of two hundred (200) ft.**
- 79.2.1.4 Secondary signs. For each separate building, entrance, or frontage on a street or parking area, there may be one secondary wall sign not exceeding one square foot for each foot of building frontage of the wall to which it is affixed, or fifty (50) square feet, whichever is less. Secondary signs may not be erected on the same wall as a principal sign, and there may not be more than two (2) secondary signs.
- 79.3 Directory Signs. There may be one directory wall sign indicating the occupants or tenants of the building to which the sign is affixed, said sign not exceeding an area determined on the basis of one square foot for each occupant or tenant. If a building has a second entrance with frontage on a street or parking area, there may be a second directory wall sign as provided above. Such signs shall not be deemed non-accessory directory signs.
- 79.4 Marquee Signs. There may be one marquee sign for a theater.
- 79.5 Awning signs. Awning signs are permitted, provided sign lettering does not occupy more than twenty (20) percent of the awning area.
- 79.6 Window signs. Window signs not exceeding in the aggregate twenty (20) percent of the window area through which they are visible are permitted without permit.

- 79.7 Gasoline station signs. Gasoline selling and service stations may maintain product identification signs (tires, oil...) provided that said signs are consolidated in one display on the subject premises and do not exceed twenty (20) square feet in the aggregate.
- 79.8 Directional signs. Signs indicating “entrance,” “exit,” “parking,” or the like, erected on a premises for the direction of persons or vehicles, not to exceed three (3) square feet per sign.
- 79.9 Standing signs. In particular instances, the Director of Inspections may permit standing signs, kiosks, or public information bulletin boards as provided in **subsection 80.1**.
- 79.10 For open-lot uses, where a calculation of aggregate sign area based on building face dimensions would result in inequitable deprivation of identification, the Board of Appeals, by Special Permit, may authorize an aggregate sign area up to but not more than one square foot in area for each linear foot of street lot lines.

### ***Section 22-80. Electronic Message Boards***

- 80.1 **In any Commercial or MU2 district an electronic message board shall be allowed in compliance with the following provisions:**
- 80.1.1 **The changeable area of the sign shall be no greater than thirty-two (32) square feet.**
- 80.1.2 **The message that is displayed shall change not more frequently than every three (3) seconds.**
- 80.1.3 **No more than one (1) electronic message board with two (2) sides is permitted per lot.**
- 80.1.4 **No message may scroll across the board.**
- 80.1.5 **No sign shall be erected at the intersection or edge of any street in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign.**

### ***Section 22-81. Dimensional Requirements for Permitted Signs***

#### **Permitted in RRA, RAA, RB, RC Districts**

<u>Type of Sign</u>	<u>Maximum Square Feet per Sign</u>	<u>Number of Signs Allowed</u>	<u>Total Square Feet</u>
Single Family Identifying	2	1	2
Multi Family Principal Identifying	15	1	15
Multi Family Secondary	2	1/building	2/building
Institutional Signs	20 and 10	2	30
Nonresidential/Nonconforming Wall	20	1	20

Standing	15	1	15
Directory Signs	3	-	3/sign

**Permitted in BA, BB, C, I Districts**

<u>Type of Sign</u>	<u>Maximum Square Feet per Sign</u>	<u>Number of Signs Allowed</u>	<u>Total Square Feet</u>
All permitted residential signs			
Business Principal			
Wall	up to 100 s.f.*	1	100*
Freestanding	up to 100 s.f.	1	100
Business Secondary	up to 50 s.f.	2	100
Directory Signs	3	-	3/sign

**\* Except as allowed in Section 84.2.1.1**

***Section 22-82. Nonconforming Signs***

Nonconforming Signs

- 82.1 **Signs legally erected before the adoption of this ordinance that do not conform to the provisions of this Article may remain erected, provided however, that no such sign may be relocated, enlarged, or altered in any such way except for the changing of moveable parts that are designed for such changes including painting or reposting of display matter. A permit is required for any such sign change. Any sign deemed abandoned or discontinued use for a period of two years will have to comply completely with **Article XII.****
- 82.2 Nonconforming signs that have deteriorated or are damaged by an act of God, vandalism or accident to such an extent that the cost of restoration exceeds fifty percent of the replacement cost of the sign at the time of restoration shall not be repaired or rebuilt or altered, except to conform to the requirements of this Article.
- 82.3 Any nonconforming temporary or permanent sign may continue as nonconforming until eight years from the date this amended ordinance was approved by the City Council. However, upon the transfer of ownership, removal, or closing of any commercial or industrial use, any non conforming sign existing related to that use, either on the premises or off, shall be eliminated and new signs erected by a succeeding use shall be conforming.

***Section 22-83. Construction and Maintenance***

All signs shall be maintained by the owner of the property on which the sign is located in a safe, clean, sanitary and inoffensive condition and all freestanding signs shall be kept free and clear of all obnoxious substances, rubbish and weeds. All signs requiring permanent insurance shall be inspected every two years to assure their structural integrity. The owner of the property on which any sign is located shall cause this inspection by a sign installer and shall submit the results of such inspection to the Director of Inspections.

### ***Section 22-84. Sign Removal***

The owner of the property on which the sign is located shall be responsible for the removal of any sign in violation of this Article within twenty-four hours of the issuance of a notice of violation by the Director of Inspections.

### ***Section 22-85. Exceptions***

In particular instances, the Planning Board may, in accordance with the procedures provided in **Section 22-13**, grant a Special Permit to allow standing signs and exceptions to the limitations imposed by this section on the number, size, location and height of signs if it is determined that the nature of the use of the premises, the architecture of the building or its location with reference to the street is such that standing signs or exceptions should be permitted in the public interest. In granting such a permit, the Board shall specify the size, type and location and shall impose such other terms and restrictions as it may deem to be in the public interest and in accordance with the building code, provided that, except as further limited in Building Code 780 CMR Chapter 31 Section 3102 through 3102.14, any such standing sign shall not exceed thirty-five (35) square feet in area, or ten (10) feet in any linear dimensions, or sixteen (16) feet in height from the ground. Where a single lot is occupied by more than one establishment, whether in the same structure or not, there shall not be more than one freestanding sign for each lot, except that if a lot has frontage on more than one street, there may be a freestanding sign for each street frontage.

In granting such permit, the Board shall specify the size, type and location of any such sign and shall impose such other forms and restrictions as it may deem to be in the public interest, and in accordance with the building code. **In any case where a building receives a Special Permit or Site Plan Approval from the Planning Board, all signs shall be reviewed and approved as part of that permitting process and shall not require a further Variance from the Zoning Board of Appeals.**

## **ARTICLE XIII: HEALTH CARE OVERLAY DISTRICT (Note that this reflects changes adopted by the City Council on March 30, 2009)**

### ***Section 22-86. Purpose***

The purpose of this **Article XIII** is to facilitate the use and development of health care and related activities in designated suitable areas in the City of Leominster so as to achieve development of a nature that represents the best use of the land in relation to, and with minimal adverse impacts on, the City's neighborhoods, on the health, safety and welfare of the City's inhabitants, and on the City's infrastructure, services and public safety facilities. It is also the purpose of this **Article XIII** to permit the City's health care service providers sufficient flexibility to use, develop and alter their facilities to respond to changes in the nature of, and the demand for, health care services, in order to assure that the City and its inhabitants continue to benefit from the provision of up-to-date health services by health care providers based in the City. This **Article XIII** provides for the use of property for certain health care and related uses as of right in a district designated as a Health Care Overlay District and provides for Site Plan review, on objective criteria, for such uses in such districts if the development exceeds a specified area or occurs outside a designated Development Envelope, in order to assure compatibility of such developments with the surrounding neighborhood while allowing flexibility to the health care service provider to develop its facilities.

### ***Section 22-87. General Provisions***

- 87.1 General. In a Health Care (HC) Overlay District, health care and related uses are permitted as set forth in **Section 22-95**, provided, in the case of new construction or alterations outside the Development Envelope (as such term is defined in **Section 22-4**) or in excess of the Development Limit (as such term is defined in **Section 22-4**), the Planning Board issues Site Plan Approval for the development under **Section 22-96** and the development is constructed and operated in conformity with the approved Site Plan and the conditions imposed by the Planning Board.
- 87.2 Applicable Provisions. In order to impose use, dimensional, parking, signage and Site Plan controls consistent with the complexity of the design, development and operation of uses of the nature permitted in an HC Overlay District, the permitted uses and dimension limitations, the design standards for parking and loading facilities and signage, and the Site Plan Approval procedures in an HC Overlay District shall be governed exclusively by the provisions of this **Article XIII**. However, except as otherwise provided in this **Article XIII**, the definitions set forth in **Section 22-4** shall apply.



## ***Section 22-88. Dimensional Requirements***

- 88.1 General Requirements. A building or structure may be built on any lot located in an HC Overlay District for any use permitted under **Section 22-95**, subject to the following requirements:
- 88.1.1 Any such building must be located so as to comply with the dimensional requirements set forth in **subsection 88.2**.
- 88.1.2 The lot must comply with the dimensional requirements set forth in **subsection 88.2**.
- 88.1.3 No lot on which a building is located shall be reduced or changed in size or shape so that such lot fails to comply with the dimensional requirements set forth in **subsection 88.2**, except for any non-compliance resulting from the exercise of the power of eminent domain or the conveyance by the owner of the lot of a portion thereof for a public purpose.
- 88.1.4 Notwithstanding any contrary provision of this **Article XIII**, domes, skylights, roof vaults, elevator and mechanical penthouses, stair towers, steeples, radio towers, chimneys, broadcasting and television antennas, bulkheads, cooling towers, pump houses, water towers, ventilators, exhaust towers, light poles, satellite dishes and other appurtenances connected to the principal structure and usually carried above the roof may have a maximum height of twenty-five (25) feet above the roofline, subject to applicable conditions and/or limitations imposed by the Federal Aviation Administration.
- 88.2 Dimensional Requirements. The following requirements shall apply to buildings in an HC Overlay District #1, noted as HODB/DE as shown on the Plan entitled Proposed Modification to the HCOD Boundary and HCOD Development Envelope, prepared by Whitman and Bingham Associates, RLS dated June 19, 2008 (the “W&B Plan”) and on file with the City Clerk:

Minimum Lot Width:	None
Minimum Lot Area:	15 Acres
Minimum Lot Frontage:	50 feet

Minimum Front, Side and Rear Yard:

<u>Maximum Height</u>	<u>Minimum Yard</u>		
	Front	Side	Rear
2-1/2 stories or 35 feet	20 feet	15 feet	30 feet
4-1/2 stories or 63 feet	35 feet	30 feet	40 feet
5 stories or 98 feet	50 feet	50 feet	50 feet

Maximum Height: The greater of 5 stories or 98 feet (subject to exclusions set forth in **subsection 88.1.4**)

The following dimensional requirements apply to Development Envelope #2, noted as HODB/DE on the W & B plan (see **Section 92.2.1**):

- a. Building Height-Seven stories (7) with 18 feet between floors and with a maximum height of 126 feet.
- b. Minimum Lot Width, Minimum Lot Area and Minimum Lot Frontage: Not required for Internal Building Envelope.

Minimum Yard: Front, Side and Rear-None required for Internal Building Envelope.

Development Limit: 300,000 square feet.

Ground Floor Location and Elevation: The location and zero elevation for the purposes of calculating building height and elevation shall be the current floor elevation of 453.0 as measured at Entrance D Lobby as indicated the W&B Plan and on file with the City Clerk.

The following dimensional requirements apply to the Multi-Use Area (MUA), noted as HODB/DE on the W & B plan (see [Section 92.2.1](#)):

- a. Minimum Lot Width: None
- b. Minimum Lot Area: None
- c. Minimum Lot Frontage: 25
- d. Maximum Height: 5 stories or 98 feet
- e. Minimum Yard:

Building Ht.	Front	Side	Rear
2 ½	20	15	30
3 ½	35	30	40
5	50	50	50

- f. Minimum Setback from Development Envelope 15 Feet.
- g. Development Limit: 100,000 Square Feet

- 88.3 Minimum Set-Back from Development Envelope for Health Care Uses. Notwithstanding any contrary provision of this [Article XIII](#), no building used for any Health Care Use shall be located less than 15 ft. from the Development Envelope. The provisions of this [subsection 88.3](#) shall not apply to any building or structure used for a purpose accessory to a Health Care Use.

### ***Section 22-89. Parking and Loading Requirements***

- 89.1 General Requirements. A building may be built on any lot located in an HC Overlay District for any use permitted under [Section 22-95](#), provided that the requirements of this [Section 22-93](#) are complied with.
- 89.2 Number of Parking Spaces. The number of parking spaces indicated for the corresponding types of uses shall be provided for uses in an HC Overlay District:

Type of Use	Minimum Number of Parking Spaces to be Provided
Hospital	1.1 per employee working at the location of such use during maximum daily shift + 1 per bed

<b>Type of Use</b>	<b>Minimum Number of Parking Spaces to be Provided</b>
Medical Laboratory	1 per 500 net square feet
Medical Office	1 per 500 net square feet
Nursing or Convalescent Home:	
Independent Living, assisted living facility, retirement facility, congregate living facility	1.1 per employee working at the location of such use during maximum daily shift + 1 per each 2 bedrooms
All others	1.1 per employee working at the location of such use during maximum daily shift + 1 per 4 beds
Out-Patient Clinic	1 per 400 net square feet
Pharmacy	1 per 500 net square feet
All other uses	As required by subsection 70.1

89.3 Rules for Interpretation of Subsection 93.2. The rules for interpretation subsection 93.2 shall be as set forth in Section 22-70.

89.4 Number of Off-Street Loading Bays. The number of off-street loading bays indicated for the corresponding types of uses shall be provided, except as otherwise indicated:

<b>Uses</b>	<b>Maximum Number of Loading Bays to be Provided</b>
Hospital	1 for each 50,000 net square feet, but not more than 3
Medical Laboratory	None
Medical Office	None
Nursing or Convalescent Home:	
Independent living facility, continuing care retirement	1 for each 50,000 net square feet, but not more

Uses	Maximum Number of Loading Bays to be Provided
facility, congregate living facility	than 3
All others	1 per 200 beds
Out-Patient Clinic	None
Pharmacy	None
All other uses	As required by subsection 71.1

- 89.5 Parking Spaces for Handicapped Persons. Specially designated parking spaces for the physically handicapped (all of which shall be included in the number of parking spaces required under subsection 93.2) shall be provided as set forth in Section 22-72.
- 89.6 Location of Off-Street Parking, Loading Bays.
- 89.6.1 Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except that parking spaces may be provided on a separate lot as provided in subsection 93.6.2.
- 89.6.2 Required parking spaces may be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted, provided: (1) all such parking spaces are within five hundred (500) feet walking distance of the boundary of the Health Care Overlay District that they serve or within one thousand five hundred (1,500) feet of such boundary, if public or private bus or shuttle transportation is available between such parking spaces and the Health Care Overlay District which they serve; (2) no pedestrian shall be required to cross a public way at grade to reach the building from the parking spaces; and (3) where such lot is not in the same ownership, a lease (or other binding legal agreement) guaranteeing a minimum of twenty (20) years use of such lot is executed and a notice thereof filed in the Worcester County (Northern District) Registry of Deeds. If the parking area is located in a zoning district in which the principal use it will serve is permitted only by Special Permit, such parking area shall be permitted only by Special Permit granted by the Planning Board in accordance with the standards set forth in Section 22-13 and subsection 67.1, in accordance with the procedure set forth in subsection 96.6.
- 89.6.3 No area may be utilized and counted as both a required parking space and a required loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each.
- 89.6.4 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a building or structure.
- 89.7 Driveways.

- 89.7.1 Each parking space and loading bay shall be connected by a driveway to a public street or to private way that leads to a public street. A driveway on one lot may (1) lead to a parking space or loading bay on another lot; (2) be located partly on another lot; or (3) straddle a lot line; provided that (A) the parking spaces or loading bays so served, or a portion of such driveway, is located in a zoning district in which the principal use served thereby is permitted; and (B) a binding easement or other appropriate agreement is entitling the owner of such principal use to use such driveway, parking spaces or loading bays is executed and recorded in the Worcester County (Northern District) Registry of Deeds and/or filed with the Worcester County (Northern District) Registry District of the Land Court.
- 89.7.2 The number and locations of driveways permitting entrance to and exit from a lot in an HC Overlay District shall be limited to those required, or not prohibited, by the Massachusetts Highway Department or the City of Leominster Department of Public Works.
- 89.8 Design Standards.
- 89.8.1 Dimensions. The dimensions for required parking spaces, driveways and maneuvering aisles shall be as set forth in subsection 76.2, except that:
- 89.8.1.1 The maximum width of a driveway for two-way use, as measured at the setback line, as set forth in subsection 76.2.4, shall not be applicable; and
- 89.8.1.2 Where access or egress is provided for a parking lot of five (5) or more spaces or for one (1) or more loading bays, no vehicle shall have to stand within a public street right-of-way waiting to enter the lot or loading bay except as permitted, or not prohibited, by the Massachusetts Highway Department or the City of Leominster Department of Public Works.
- 89.8.2 Number of Compact Car Spaces. Not more than thirty-three percent (33%) of the parking spaces in any parking lot may be designated for use by compact cars. Such compact car spaces may be located in one or more contiguous areas, or may be inter-mixed with spaces designed for standard cars. Such compact car spaces shall be clearly designated by signs or pavement marking.
- 89.8.3 Loading Bays. All required loading bays shall have minimum dimensions as follows: thirty (30) feet long, ten (10) feet wide and twelve (12) feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Director of Inspections requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles and trailers.
- 89.8.4 Marking. In a parking lot or loading area, the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent.
- 89.8.5 Availability Snow Storage. To insure the availability and utilization of required parking spaces and loading bays on a year-round basis:
- 89.8.5.1 No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building, or establishment.
- 89.8.5.2 A strip of land not less than five (5) feet in width shall be provided on at least two (2) sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow

plowed or removed from the surface area of the parking lot or loading area. Such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.

- 89.8.5.3 Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space or bay without requiring the moving of any other vehicle or bypassing over any other space or bay.
- 89.8.5.4 Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically designated and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so designated.
- 89.8.6 Surfacing Drainage. All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no material surface water shall drain into any public way (except as permitted under Site Plan review) or onto any lot in other ownership (except as permitted by the owner of such lot).
- 89.8.7 Grade. The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be ten percent (10%). The maximum grade of any outdoor driveway shall be fifteen percent (15%).
- 89.8.8 Landscaping. Outdoor parking lots shall be landscaped as follows:
- 89.8.8.1 On at least three (3) sides of the perimeter of an outdoor parking lot containing twenty (20) or more parking spaces, there shall be planted at least one (1) tree for every five (5) parking spaces abutting the perimeter. Such trees shall generally be located such that all required trees are no further than forty (40) feet from the nearest edge of the parking area. For purposes of this subsection 93.8.8, "parking area" shall include any driveways, interior drives, access drives or ring roads. No tree shall be required to be located in such a manner as to impair the sight lines of pedestrians or motorists at any driveway intersection or point of ingress or egress.
- 89.8.8.2 In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of ten (10) or more parking spaces face each other trees shall be located in planting areas either between or at the ends of the rows of parking spaces. There shall be planted in each planting area at least three (3) trees and in all such planting areas not less than one (1) tree for every ten (10) parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than thirty (30) feet from a tree. Trees required by this subsection 93.8.8.2 may be provided in moveable planters, rather than being permanently planted in the ground.
- 89.8.8.3 Trees required by this subsection 93.8.8 shall be at least two (2) inches diameter at a height four (4) feet above the ground at time of planting, shall be not less than six (6) feet tall, and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and, if they meet the dimensional requirements of this subsection 93.8.8.3, shall satisfy the requirements of this subsection 93.8.8.
- 89.8.9 Only parking lots constructed after the date of the first public hearing on this Article XIII, or portions of parking lots existing as of such date but substantially reconstructed thereafter, shall be required to comply with the provisions of subsection 93.8.8.

## ***Section 22-90. Signs***

- 90.1 Applicability. The sign regulations applicable to the underlying zoning district pursuant to Article XII shall apply to all uses in an HC Overlay District except as set forth in this Section 22-94. The Planning Board may grant relief from the location of signs in accordance with the standards set forth in subsection 81.1.9.
- 90.2 Signs Not Requiring a Permit. In addition to those signs not requiring a permit pursuant to subsection 82.1, signs on the interior of any building, flagpoles and lightpoles shall not require a permit (provided that all such interior signs, flagpoles and light poles must be constructed and erected pursuant to applicable state building, fire and electrical codes).
- 90.3 Permitted Signs. In addition to other permitted signs, the following signs shall be permitted as of right in an HC Overlay District:
- 90.3.1 Wall signs shall be permitted on the exterior walls of buildings in an HC Overlay District to indicate the business names of the owners and occupants of the HC Overlay District (and of the principal services and/or providers therein), provided the aggregate surface area of all exterior wall signs does not exceed:
- 90.3.1.1 ten percent (10%) of the surface area of all exterior building walls; and
- 90.3.1.2 fifteen percent (15%) of any one exterior wall.
- 90.3.2 Monument signs - (i.e., signs that are built into the ground and integrated into the surrounding landscape) shall be permitted, provided that no such sign shall exceed ten (10) feet in height or twenty (20) feet in length.
- 90.3.3 Construction signs - shall be permitted for the duration of construction.

## ***Section 22-91. Use Regulations***

- 91.1 Permitted Uses. In all portions of the City indicated on the Zoning Map as an HC Overlay District:
- 91.1.1 All permitted uses shall be subject to the appropriate provisions of subsections 16.1, 16.3, 16.5, 16.8 and Section 22-92 and, insofar as a building or structure is to be constructed within the Floodplain District or the Water Supply Protection District to the appropriate provisions of Article V or Article VI, respectively. Sand, gravel or loam removal in connection with the construction or renovation of any building or structure shall be permitted, subject to the applicable provisions of City Ordinances other than this Article XIII.
- 91.1.2 The following uses of land, buildings and structures are permitted, provided that, insofar as they are to be located within the Flood Plain District or the Water Supply Protection District, all uses comply with the provisions of Articles V and VI respectively of this Article XIII:
- 91.1.2.1 All uses permitted under the applicable provisions of Article V or Article VI of this Ordinance.
- 91.1.2.2 All uses permitted in the underlying zoning district.



- 91.1.2.3 Hospital.
- 91.1.2.4 Medical Laboratory.
- 91.1.2.5 Medical Office.
- 91.1.2.6 Nursing or Convalescent Home.
- 91.1.2.7 Out-Patient Clinic.
- 91.1.2.8 Pharmacy.
- 91.1.3 The following uses of land, buildings and structures are permitted upon issuance of a Special Permit by the Planning Board provided the Planning Board finds that such use is not objectionable to the residents or occupants of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration and that the use is not contrary to the general welfare, safety, health and morals of the inhabitants of the City.
- 95.1.3.1 All uses, other than those specified in subsections 95.1.2.1 to 95.1.2.8 inclusive, permitted by Special Permit in the underlying zoning district.
- 91.1.4 All other uses of land, buildings and structures not otherwise prohibited by this Ordinance shall be permitted upon issuance of a Special Permit from the City Council upon a finding by the City Council that such use is similar in character to the uses permitted under the subsections 95.1.2 and 95.1.3 and similar in effect on immediately abutting property, provided that the use is not objectionable to the residents of adjacent properties because of dust, odor, fumes, smoke, refuse, glare, radiation, noise or vibration; and provided, further, that the use is not contrary to the general welfare, safety, health and morals of the City.
- 91.1.5 Insofar as construction requiring a Special Permit under this Section 22-95 is to occur within the Water Supply Protection District, all of the standards specified in subsection 41.6 and Section 22-42 shall apply.
- 91.2 Accessory Uses. Uses customarily incidental to any principal use permitted under this Section 22-95 shall be permitted as accessory uses in an HC Overlay District.
- 91.3 Commercial Uses. Uses customarily allowed in the Commercial – C District of the City of Leominster shall be permitted within the Multi-Use Area Development Envelope, subject to the requirements of Article XI: Off Street Parking and Loading.

***Section 22-92. Designation of Development Envelope; Site Plan Approval;  
Authority of the Planning Board***

- 92.1 General Purpose. The general purpose of this Section 22-96 is as set forth in Section 22-49 and to accomplish the purposes set forth in Section 22-90.
- 92.2 Designation of Development Envelope and Development Limit. The City Council has designated a development Envelope identified as “Development Envelope #2” as shown on the plan entitled “Proposed Modification to the Health Care Overlay District”, prepared by Whitman and Bingham Associates, LLC dated June 19, 2008, revised on March 30, 2009, on file with the City Clerk. The City council has further



designated a “Multi-Use Area Development Envelope”, which is set forth in said plan and subject to the use requirements of [Section 95.3](#) of this ordinance. The designation of such Development Envelopes is subject expressly made subject to all conditions set forth in said plan. The City Council has also specified the Development Limit for Development Envelope #2 and the Multi-Use Area Development Envelope, which is set forth in [Section 92.2](#) of this ordinance. Buildings, structures and improvements existing within such designated Development Envelope at the time of such designation shall not be included in the Development Limit.

92.2.1 Development Envelope #1 shall extend the HCOD Boundaries and its Development Envelope to the sideline of Nelson Street, North Main Street, Washington Street, and St. Jean Street between Washington Street and Arlington Street; as shown on the Plan entitled Proposed Modification to the HCOD Boundary and HCOD Development Envelope, prepared by Whitman and Bingham Associates, RLS dated June 19, 2008 (the “W&B Plan”) and on file with the City Clerk and shall set the Development Limit as provided in [Section 92.2 paragraph 2](#) at 300,000 square feet and modify HCOD Boundaries and its Development Envelope. Said plan shall also designate the Multi Use Area.

92.3 Site Plan Approval for Construction Development Envelope. No Site Plan Approval shall be required for the renovation, rehabilitation, repair or replacement of any building, structure or other improvement existing within a designated Development Envelope at the time of designation of such Development Envelope or constructed thereafter in accordance with the provisions of this [Article XIII](#). For purposes of this [subsection 96.3](#), “replacement” shall mean the construction of a new building, structure or other improvement that is not substantially higher than, and that is substantially contained within the footprint of, the building, structure or improvement it replaces, so long as such renovation, rehabilitation, repair or replacement does not create any greater nonconformity with the requirements of this Article XIII than existed prior to such renovation, rehabilitation, repair or replacement.

Notwithstanding any contrary provision of this [Article XIII](#), no building permit shall be issued for construction of any new building or any new addition to an existing building to be used for a Health Care Use within a designated Development Envelope after the date of such designation which, when the net floor area of such new building or addition is added to the net floor area of all new buildings and additions used for a principal Health Care Use constructed within the Development Envelope after the date of such designation, would cause the aggregate net floor area of all new buildings and additions used for principal Health Care Uses constructed within the Development Envelope after the date of such designation to exceed the Development Limit, unless Site Plan Approval shall have been granted for such new building or addition by the Planning Board pursuant to this [Section 22-96](#). The area of any building, structure or improvement used for an accessory use shall not be included in the computation described in this [subsection 96.3](#), and shall not require Site Plan Approval hereunder.

92.4 Special Permit and Site Plan Approval for Construction Outside Development Envelope. Except as otherwise specifically provided in this [subsection 96.4](#), no new building, structure or other improvement shall be constructed outside a designated Development Envelope unless (i) a Special Permit for such new, building, structure or other improvement shall have been issued by the Special Permit Granting Authority pursuant to this [Section 22-96](#); and (ii) Site Plan Approval for such new building, structure or other improvement shall have been granted by the Planning Board pursuant to this [Section 22-96](#). Notwithstanding the foregoing, no Special Permit or Site Plan Approval shall be required for the use, maintenance, repair or replacement of any roadway, driveway, retention basin or detention basin located entirely or partially outside a designated Development Envelope if such roadway, driveway, retention basin or detention basin was in existence as of the effective date of this [Article XIII](#). For purposes of this [Section 22-96](#), the Special Permit Granting Authority shall be the City Council.

- 92.5 Application for Special Permit. Applications for Special Permits pursuant to this [Section 22-96](#) shall be reviewed as provided in [Section 22-13](#).
- 92.6 Application for Site Plan Approval. Applications for Site Plan Approval pursuant to this [Section 22-96](#) shall be submitted as provided in [Section 22-50](#).
- 92.7 Procedure for Site Plan Review.
- 92.7.1 Said Site Plan shall be prepared as provided in [subsection 51.1](#).
- 92.7.2 Period of Review -- The period of review for Site Plan Approval shall be as follows:
- 92.7.2.1 Within seven (7) days of receipt of a complete application, the Planning Department shall forward copies of the Site Plan to all departments and boards deemed relevant by the Planning Board.
- 92.7.2.2 Within sixty-five (65) days of submission, the Planning Board shall hold a public informational meeting on the application.
- 92.7.2.3 Within ninety (90) days of the informational meeting, the Planning Board shall act on the application. Failure of the Planning Board to so act shall be treated as the approval of the Site Plan without conditions other than compliance with the site design standards specified in [subsections 96.8.1 to 96.8.4](#) inclusive.
- 92.8 Site Design Standards. The purpose of the following site design standards is to ensure that adequate consideration is given to the natural resources and characteristics of a site, to its topographic, hydrologic and geologic conditions, public convenience and safety, particularly with regard to abutters, and the suitability of a proposed use on a site. Before the granting of any Site Plan Approval, the Planning Board shall assure that each Site Plan submitted for review shall comply in full with the following site design standards:
- 92.8.1 Stormwater Runoff - For any lot containing eighty thousand (80,000) sq. ft. of land area or more, the peak rate of storm water runoff, including sudden snow melt, to the drainage areas shall not exceed the rate existing prior to the new construction based on a ten (10) year design storm. The applicant shall provide the analysis, certified by a Massachusetts registered civil engineer, necessary to document the previous and proposed run-off rates. The Planning Board may authorize the use of stormwater drainage facilities located off the lot and designed to serve one or more lots provided it finds that:
- 92.8.1.1 The peak rate of stormwater runoff from such off-site facilities does not exceed the rate existing prior to the new construction based on a twenty-five (25) year design storm; and
- 92.8.1.2 The applicant has retained the rights and powers necessary to assure that the off-site stormwater drainage facilities will be properly maintained in good working order.
- 92.8.2 Outdoor Lighting - In the area of new construction, outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to prevent glare and light spilling over to neighboring properties in accordance with this [subsection 96.8.2](#). Except for low-level intensity pedestrian lighting with a height of less than eight feet, all outdoor lighting shall be designed and located so that:

- 92.8.2.1 The luminaire has an angle of cutoff (as measured from the fixture down to the ground) equal to or less than 76 degrees; and
- 92.8.2.2 A line drawn from the height of the luminaire along the angle of cutoff intersects the ground at a point within the HC Overlay District.
- 92.8.3 Common Driveway in an HC Overlay District -The Planning Board may permit a common driveway to serve two (2) or more principal uses located in an HC Overlay District, notwithstanding that the principal uses in such HC Overlay District are different.
- 92.8.4 Reserve Parking Spaces -- In granting Site Plan Approval, the Planning Board may authorize a decrease in the number of parking spaces as follows:
- 92.8.4.1 Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by [Section 22-93](#), the Planning Board may reduce the number of such spaces or bays required by not more than thirty percent (30%). The applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one-half (1/2) of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan shall show how the reserve area would be laid out in compliance with this Section.
- 92.8.4.2 If after one (1) year after the Certificate of Occupancy is issued for the building or use, the Planning Board determines that additional parking spaces are needed, it may require that all or any portion of the spaces shown on the approved Site Plan as "Reserve Parking" be constructed.
- 92.8.4.3 Where two or more uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate uses or if it can be reasonably demonstrated to the Planning Board that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses served by the parking lot or loading bay.
- 92.9 Modification to Approved Site Plan. Any significant change as determined by the Planning Board Staff, from the approved Site Plan shall require approval of the Planning Board. This approval shall be based only on the proposed modification and not the entire Site Plan. For purposes of this Section 22-96, change in a previously approved Site Plan to relocate or otherwise modify one or more buildings, structures, parking lots, loading bays, exterior lamps or landscaping features shown on the previously approved Site Plan shall not be deemed to be a significant change if such revised Site Plan complies with the requirements of [subsection 96.8](#) and such relocation or modification does not materially adversely affect the natural resources and characteristics of the site, its topographic, hydrologic and geologic conditions, public convenience and safety, or the suitability of the proposed use on the site. Any change in a previously approved Site Plan that is determined by the Planning Board Staff not to be a significant change shall be reviewed and approved by the Planning Board Staff in accordance with the standards set forth in [subsection 96.8](#). Any change in a previously approved Site Plan that is determined by the Planning Board Staff not to be a significant change and is approved by the Planning Board Staff pursuant to this [subsection 96.9](#) shall be deemed to be permitted by the Special Permit issued with respect thereto pursuant to this [Section 22-96](#), without any further action by the Special Permit Granting Authority.

Exceptions (Dimensional Requirements). In accordance with the provisions of subsections 13.3 and 13.4, the Planning Board shall have the authority to grant relief from the requirements of subsection 92.2, Section 22-93, and subsection 96.8 by granting Site Plan Approval that varies the dimensional requirements by up to a maximum of twenty percent (20%) (or, in the case of relief from the requirements of Section 22-93, that varies the applicable requirements as permitted by subsections 77.1 and 77.5 where the Planning Board finds that (a) the distinctive nature of the architecture of the building(s), the location of the building(s) or the land, or the nature of use being made of the building(s) or the land is such that relief should be granted in the public interest; or (b) in the case of relief from the requirements of Section 22-93, the applicable requirements of subsections 77.1, 77.2, and 77.5 have been met. In granting such relief, the Planning Board shall specify the extent of the relief granted and may impose such restrictions and conditions related to such relief as it deems to be in the public interest and as are in harmony with the general purpose and intent of this Article XIII.

## ***ARTICLE XIV: WIRELESS COMMUNICATIONS FACILITIES***

In addition to the general conditions and procedures established in this Ordinance for all Special Permits, the following additional requirements and procedures shall apply.

### ***Section 22-93. Purpose***

The purpose of this section is to establish an Ordinance by which wireless communication may be provided with minimal harm to the public health, safety, and general welfare. Specifically, the Wireless Communications Facilities Ordinance has been created to (a) protect the general public from hazards of structural failure associated with wireless communications facilities and (b) minimize visual impacts from wireless communications facilities on residential districts within Leominster. This section does not apply to satellite dishes and antennas for residential use.

### ***Section 22-94. Use Restrictions***

- 94.1 Wireless Communications Facilities shall be allowed in all zoning districts with a Special Permit from the Special Permit Granting Authority unless otherwise noted in this Ordinance.
- 94.2 When properly camouflaged, side-mounted, roof-mounted, structure-mounted and interior-mounted Wireless Communications Facilities shall require only a building permit.
- 94.3 The co-location of a new Wireless Communications Facility on any existing guyed tower, lattice tower, or monopole shall require only a building permit, provided that the installation of the new Wireless Communications Facility does not increase the height of the existing structure nor the size of the existing secured area at the base of the facility where the equipment cabinet/shelters are located.

### ***Section 22-95. Location***

- 95.1 The applicant shall submit documentation of the legal right to install and/or use the proposed Wireless Communications Facility mount at the time of application for a building permit and/or Special Permit.
- 95.2 If feasible, Wireless Communications Facilities shall be located on existing structures, including, but not limited to buildings, water towers, existing Wireless Communications Facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more Wireless Communications Facilities. The applicant for a special permit

under Section 22-102 shall have the burden of proving that there are no feasible existing structures upon which to locate.

- 95.3 If the applicant for a Special Permit demonstrates that it is not feasible to locate on an existing structure, the Wireless Communications Facility shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to: disguising the facilities to look like other structures (i.e., flagpoles, trees, etc.), the use of compatible building materials and colors, screening, landscaping, and placement within clusters of trees.

### ***Section 22-96. Dimensional Requirements***

Wireless Communications Facilities shall comply with the following requirements:

- 96.1 **Height, Roof-Mounted Facilities:** Roof-mounted Wireless Communications Facilities shall not project more than ten (10) feet above the height of the existing building upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a building that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing building height.
- 96.2 **Height, Structure-Mounted Facilities:** Structure-mounted Wireless Communications Facilities shall not project more than ten (10) feet above the height of the existing structure upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a structure that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing structure height.
- 96.3 **Height, Side-Mounted Facilities:** Side-mounted Wireless Communications Facilities shall not project above the height of the existing building or structure upon which the Wireless Communications Facility is proposed to be located. Said Wireless Communications Facilities may locate on a building or structure that is legally non-conforming with respect to height, providing that the Wireless Communications Facilities do not project more than ten (10) feet above the existing building or structure height.
- 96.4 **Height, Interior-Mounted Facilities:** Interior-mounted Wireless Communications Facilities shall not exceed the height of the building or structure upon which the Wireless Communications Facility is proposed to be located and shall be completely camouflaged such as within a flagpole, steeple, chimney or similar structure.
- 96.5 **Height, Ground-Mounted Facilities:** The Special Permit Granting Authority shall have the authority to authorize the height of a ground-mounted Wireless Communication Facility to exceed the applicable height limits under Article III, provided, however, that it may not authorize a height in excess of 190 feet.
- 96.6 **Setbacks:** All Wireless Communications Facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the Wireless Communications Facilities are located.
- 96.7 **Fall Zone:** In order to ensure public safety, the minimum distance from the base of any ground-mounted Wireless Communications Facility to any property line, road, habitable dwelling, business or institutional use, or public recreational area shall be the height of the Wireless Communications Facility including any antennas or other appurtenances.

## ***Section 22-97. Performance Standards***

All Wireless Communications Facilities shall comply with the following Performance Standards set forth in this section:

- 97.1 Design Standards
  - 97.1.1 Visibility/Camouflage: Wireless Communications Facilities shall be camouflaged as follows:
    - 97.1.1.1 Camouflage by Existing Buildings:
      - 97.1.1.1.1 When a Wireless Communications Facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the Wireless Communications Facility within or behind existing architectural features to limit its visibility from adjoining ways. Wireless Communications Facilities mounted on a roof shall be stepped back from the front façade to limit their impact on the building's silhouette.
      - 97.1.1.1.2 Wireless Communications Facilities that are side-mounted shall blend with the architecture of the existing building and shall be painted or shielded with material that is consistent with the design features and materials of the building.
    - 97.1.1.2 Camouflage by Vegetation: All ground-mounted Wireless Communications Facilities and equipment shelters shall be surrounded by buffers of tree growth and under story vegetation in all directions to create an effective visual buffer at the street level. Ground-mounted Wireless Communications Facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the Wireless Communications Facilities at the street level. Trees and vegetation may be existing on the subject property or installed as part of the proposed Wireless Communications Facility or a combination of both. The Special Permit Granting Authority shall determine the types of trees and plant materials, depth, and overall appropriate design of the needed buffer on site conditions.
    - 97.1.1.3 Color:
      - 97.1.1.3.1 Wireless Communications Facilities that are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
      - 97.1.1.3.2 To the extent that any Wireless Communications Facility extends above the height of the vegetation immediately surrounding it, it shall be appropriately camouflaged.
  - 97.1.2 Equipment Shelters: Equipment shelters for Wireless Communications Facilities shall be designed consistent with one of the following design standards:
    - 97.1.2.1 Equipment shelters shall be located in underground vaults; or
    - 97.1.2.2 Equipment shelters shall be designed in accordance with architectural styles and materials reflective of the uses within a three hundred (300) foot radius of the location acceptable to the Special Permit Granting Authority; or

- 97.1.2.3 Equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, cabinets, or wooden fence. The Special Permit Granting Authority shall determine the style of the fencing and/or landscape buffer that is compatible with the neighborhood.
- 97.1.3 Lighting & Signage
- 97.1.3.1 Wireless Communications Facilities shall be lighted only if required by the Federal Aviation Administration. Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.
- 97.1.3.2 Signs shall be limited to a sign identifying the facility, the owner and operator and an emergency telephone number where the owner can be reached on a twenty-four (24) hour basis, a no trespassing sign, a sign displaying the FCC registration number and, any signs required to warn of danger. All signs shall comply with the requirements of the Leominster Zoning Ordinance.
- 97.1.3.3 All ground-mounted Wireless Communications Facilities shall be surrounded by a security barrier of a design and material acceptable to the Special Permit Granting Authority.
- 97.1.4 Historic Buildings & Districts
- 97.1.4.1 All Wireless Communications Facilities proposed to be located within an historic district or on an historic structure must be reviewed by the Leominster Historical Commission.
- 97.1.4.2 Any Wireless Communications Facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- 97.1.4.3 Any alteration made to an historic structure to accommodate a Wireless Communications Facility shall be fully reversible.
- 97.1.4.4 Wireless Communications Facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from adjoining ways and viewing areas within the district.
- 97.2 Environmental Standards
- 97.2.1 Wireless Communications Facilities shall be setback from designated wetlands and waterbodies. Conservation Commission review and approval may be necessary.
- 97.2.2 No hazardous waste shall be discharged on the site of any Wireless Communications Facility.
- 97.2.3 Stormwater run-off shall be contained on-site or adequately disposed of off-site via connection to an existing stormwater drainage system.
- 97.3 Safety Standards
- 97.3.1 All equipment proposed for a Wireless Communications Facility shall comply with the Federal Communications Commission Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines) and shall be maintained so as to remain in compliance with such guidelines as they may be amended.



## ***Section 22-98. Special Permits***

- 98.1 The Special Permit Granting Authority for Wireless Communications Facilities shall be the Planning Board.
- 98.2 The Special Permit Granting Authority shall have the authority to hire a consultant to review any proposed Wireless Communications Facility submission at the expense of the applicant.
- 98.3 Application Filing Requirements: In accordance with this Ordinance, the location of a Wireless Communications Facility which is not in conformance with subsection 98.1 or 98.2 will require a Special Permit from the Planning Board. An application for a Special Permit shall be filed in accordance with Article I and shall be accompanied by seven (7) copies of the following information:
- 98.3.1 Before a Special Permit for any new Wireless Communications Facility is approved, the applicant must demonstrate that it is not feasible to locate their antenna and facilities on an existing Wireless Communications Facility, structure or building. Before a Special Permit for a new Wireless Communications Facility in a residential district is approved, the applicant must also demonstrate that it is not feasible to locate their antenna and facilities in other districts or on municipal facilities. Such demonstration studies shall include a summary of propagation studies and a plan for any network of facilities.
- 98.3.2 Details of the Wireless Communications Facility, guy wires and anchors (if any), lighting, and all structures located within 300 feet of the Wireless Communications Facility.
- 98.3.3 Location of alternate sites, if any.
- 98.3.4 Color photographs, computer simulation or renditions illustrating the proposed Wireless Communications Facility with its antenna and/or panels or dishes and its location. The Planning Board may require additional visual analysis such as, among other items, enhanced landscaping plans and line-of-site drawings.
- 98.3.5 Within thirty days after filing the application for any new Wireless Communications Facility or extension in height thereto, if requested by the Planning Board, the applicant shall arrange to fly a balloon at the site at the maximum height of the proposed installation. The balloon shall be of a size and color that can be seen from every direction for a distance of one (1) mile.
- 98.3.6 A certification that the applicant possesses all necessary licenses to operate such a facility and has complied with all federal and state requirements to provide the proposed service.
- 98.3.7 Reports prepared by one or more registered professional engineers, which shall:
- 98.3.7.1 Demonstrate that the Wireless Communications Facility complies with all applicable standards of the Federal and State governments; and
- 98.3.7.2 Describe the capacity of the Wireless Communications Facility including the number and type of transmitting and receiving antennas that it can accommodate and the basis for the calculation of capacity; and

- 98.3.7.3 Demonstrate that the Wireless Communications Facility and site comply with this regulation; and
- 98.3.7.4 Describe the auxiliary power source, if any.
- 98.3.8 A copy of the FCC registration, FCC license, and FAA opinion letter or registration for the proposed Wireless Communications Facility and applicant.
- 98.3.9 For facilities proposed on municipally owned land or structures, evidence of contractual authorization from the City of Leominster to conduct wireless communications on municipally owned property.
- 98.3.10 File an approval letter from the Massachusetts Department of Public Health confirming that the proposed filing meets the requirements of Massachusetts Department of Public Health regulation 105 CMR 122.000 for Wireless Communications Facilities with respect to emissions.

### ***Section 22-99. Approval***

A Special Permit shall be granted by the Special Permit Granting Authority in accordance with the Massachusetts General Law and Article I of this Ordinance. Any extension of height or replacement of a Wireless Communications Facility shall be subject to a new application or an amendment to the Special Permit.

### ***Section 22-100. Conditions of Use***

- 100.1 The Wireless Communications Facility and its transmissions shall comply in all respects with the current standards of the American National Standards Institute (ANSI) and the National Council for Radiation Protection (NCRP), whichever are stricter.
- 100.2 All Wireless Communications Facilities shall be operated only at Federal Communications Commission (FCC) designated frequencies and power levels, and the applicant shall provide certification that the allowable frequencies are not deviated from, and power levels will not be exceeded. Certification shall include technical specifications, an explanation of those specifications, and, if necessary, field verification.
- 100.3 All unused Wireless Communications Facilities or parts thereof or accessory facilities and structures which have not been used for one (1) year shall be dismantled and removed at the owner's expense.
- 100.4 All Wireless Communications Facilities shall be maintained in good order and repair. Any paint and finish must be annually maintained and repaired when the blemishes are visible from the property line. Annual inspection and maintenance reports for the Wireless Communications Facility and site shall be filed with the Director of Inspections and, when applicable, the Special Permit Granting Authority.

### ***Section 22-101. Performance Guarantees***

- 101.1 Insurance in a reasonable amount determined and approved by the Special Permit Granting Authority after consultation at the expense of the Applicant with one (1) or more insurance companies shall be in force to cover damage from the structure and other site liabilities. Annual proof of said insurance shall be filed with the Special Permit Granting Authority.

- 101.2 An initial bond shall be posted for annual maintenance for any access road, site and Wireless Communications Facility in an amount approved by the Special Permit Granting Authority.
- 101.3 The Special Permit Granting Authority may require an additional financial performance guarantee to insure that facilities which have not been used for one year are removed.
- 101.4 Annual certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration, and the American National Standards Institute shall be filed with the Director of Inspections and the Special Permit Granting Authority by the Special Permit holder at the operator's expense.

## ***ARTICLE XV: ACCESSORY APARTMENTS***

### ***Section 22-102. Intent and Purpose***

The purpose of this Accessory Apartment Article is to expand the types of housing permitted in the City in order to provide opportunities for persons who may need or desire to share the premises of a single-family residence with relatives, to do so. It is intended that the provisions of this Article will be implemented in a manner which will protect the stability, property values, and single-family residential character of neighborhoods, and ensure building and health code compliance.

### ***Section 22-103. Special Permit Procedures and Conditions***

- 103.1 The Planning Board may authorize an Accessory Apartment as an accessory residential use by Special Permit in any residential district provided that each of the following standards and criteria are met:
  - 103.1.1 The Accessory Apartment may be a complete, separate housekeeping unit that functions as a separate unit from the single-family residence of which it is a part. The purpose of this ordinance is to provide the in-law units for occupation by family members of the owner(s) of the single-family dwelling.
  - 103.1.2 Only one Accessory Apartment may be created within a single-family dwelling.
  - 103.1.3 An Accessory Apartment may only be created in a dwelling that would otherwise be classified as a single-family detached dwelling.
  - 103.1.4 The lot on which the single-family residence dwelling is located must have a minimum of 10,000 square feet and must comply with all applicable zoning requirements for its district after the accessory apartment has been created.
  - 103.1.5 Adequate provision must be made for the disposal of sewage, waste and drainage generated by the occupancy of the entire dwelling, including the Accessory Apartment, in accordance with the requirements of the Leominster Department of Public Works.
  - 103.1.6 The Accessory Apartment shall be designed so that the appearance of the building remains that of a single-family residence dwelling as much as is feasibly possible. Any new entrances shall be located on the side and rear of the building.

- 103.1.7 The Accessory Apartment shall be clearly a subordinate part of the single-family dwelling. It shall be no greater than seven hundred fifty (750) square feet or thirty-three (33) percent of the total square footage of the primary dwelling, whichever is greater, nor have more than two (2) bedrooms.
- 103.1.8 At least three (3) off-street parking spaces must be provided for any single-family dwelling that has an Accessory Apartment. No new driveway or curb cut shall be created to service the accessory apartment
- 103.1.9 The construction of an Accessory Apartment must be in conformity with State Building Code Requirements.
- 103.1.10 An Accessory Apartment Special Permit shall be issued solely in the name of the record owner(s) of the single-family residence dwelling premises and shall automatically terminate upon either: (1) the transfer of the ownership of the premises, except in the instance where there is a transfer between co-owners; or (b) cessation of the record owner(s)' occupancy of either the single-family residence dwelling or the Accessory apartment as his, her or their principal place of residence; or (c) permanent occupancy of either the single-family dwelling or the Accessory apartment by persons unrelated to the record owner(s). For purposes of this subsection, a bona fide temporary absence will not be considered a cessation of occupancy, and a bona fide temporary occupancy by guests will not be considered permanent occupancy.
- 103.1.11 A Special Permit is issued for the Accessory Apartment accessory to a single-family residence dwelling shall not be construed as authorizing apartment, multi-family, or duplex use of the subject premises.
- 103.1.12 In order to provide for disabled and handicapped family members in accordance with G.L.MGL.c.40A,§3, The Planning Board may allow reasonable deviation from the above-stated conditions of this subsection where necessary to install features that facilitate access and mobility for disabled persons.

#### ***Section 22-104. Application Procedure***

The application for the submission and approval of a Special Permit for an Accessory Apartment in an owner-occupied single-family dwelling shall be the same as prescribed in **Section V, Article I, Section 22-13, Special Permits.**

#### ***Section 22-105. Transfer of Ownership of a Dwelling With an Accessory Apartment***

- 105.1 As stated in **subsection 22-111.1.10**, each Accessory Apartment Special Permit shall terminate upon any transfer of title except between the owners of the single-family dwelling premises.
- 105.2 No successor in title to a single-family dwelling for which an Accessory Apartment Special Permit shall have been granted may use the apartment as a separate dwelling unit unless a new Special Permit is first obtained.

#### ***Section 22-106. Existing Accessory Dwelling Units***

Any accessory dwelling unit existing in a single-family dwelling on the effective date of this Article, may continue in use, although not originally authorized under the Zoning Ordinance. A pre-existing accessory dwelling unit shall be considered grand-fathered provided that the Accessory unit was constructed with a

building permit or is recognized by the Assessor's Office as being an approved Accessory unit. Any existing dwelling unit that applies to the Planning Board under new ownership shall be exempt from the conditions as set forth in [Section 22-111.1.6 & Section 22-111.7](#)

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**NOTE: This Article (XVI) is new.**

## ***ARTICLE XVI: LANDSCAPING***

- 1.** Appropriate landscaping and design shall be incorporated into new and expanded development within nonresidential zoning districts. Landscape design plans shall be prepared by a registered landscape architect, although the Planning Board may accept a plan prepared by one other than a landscape architect if it believes the plan meets the design guidelines noted below and is in concert with the intent of this regulation. Wherever possible, naturally occurring vegetation shall be incorporated into the landscape plan. For landscaping of parking areas, **see Section \_\_\_\_**. For the Downtown Overlay District, **see Section \_\_\_\_**.
  - A.** Side yard setbacks (in accordance with the Dimensional Regulations – **Article \_\_\_\_**) shall be landscaped. This side yard shall be planted with a combination of grass, appropriate height shrubs and shade trees. If there is not an adequate amount of side yard area to landscape, a fence may be allowed as an alternative, although chain link fencing shall not be permitted. No parking area or driveway shall be allowed within this side yard.
  - B.** Exposed storage areas, machinery, garbage dumpsters, service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods compatible with the goals of this regulation.
  - C.** The beneficiary of any special permit under this regulation shall replace any tree or shrub that dies within one (1) growing season. Replacement trees or shrubs shall be of similar type and size to the one(s) approved as part of the original approval.
  - D.** Trees are to be planted where necessary, as determined by the Board. Trees shall be the equivalent of well-rooted nursery-grown, stock free of injury, harmful insects, and diseases. They shall be well-branched, and the branching structure shall be sound. Trees shall only be planted after April 15 and before September 30. Any planting outside of those dates shall be approved by the City Arborist.
  - E.** No more than fifty percent (50%) of the trees, approved to be planted, shall be of any one species and no less than twenty-five percent (25%) of the total trees planted shall

be of any one species. Trees shall be chosen from a list provided by the City Arborist, unless an alternative is specifically approved by the Board.

- F. Trees shall be spaced at intervals of fifty-five to sixty-five feet (55'-65'). No trees shall be planted within fifty feet (50') of an intersection or future intersection. Trees on one side of the street may be set either opposite or diagonally to trees on the opposite side. Trees shall be planted two and a half feet (2 ½') behind the sidewalk or six feet (6') behind the gutter line and always within the R.O.W. No trees shall be planted in any easements. The location of all the proposed trees must be reviewed by the City on-site and approved prior to installation.
- G. Minimum acceptable size of tree to be planted shall be two inch (2") trunk caliper at four feet (4') above the grade. At the time of delivery the proposed trees must be approved by the City. Evergreen trees shall be at least eight (8) to ten (10) feet tall at the time of planting.
- H. Specifications for planting operations and for support stakes, guy wire and cable, ground anchors, hose, and strapping material shall be as specified in the American Standard Specifications for Nursery Stock published by the American Association of Nurserymen.
- I. A landscaping maintenance plan shall be prepared and submitted as part of the design plan. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.



**NOTE: This Article (XVII) is new.**

## ***ARTICLE XVII: INCLUSIONARY HOUSING***

**A. Purpose and Intent.** The purpose of this Article is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with various initiative programs developed by state and local government.

- 1. Encourage the supply of rental and ownership housing in the City of Leominster that is available to and affordable to low and moderate income households;**
- 2. Exceed the 10% affordable housing trend established by the Commonwealth in MGL Chapter 40B, Section 20; and**
- 3. Encourage a greater diversity and distribution of housing to meet the families and individuals of all income levels.**

**B. Applicability.**

- 1. General.** The provisions of this Section shall apply in zoning districts to all residential developments of eight (8) or more housing units, whether rental or ownership. The requirements must be satisfied before a Building Permit may issue. Assisted living units in a life care facility and accompanying services are also subject to the requirements of this section.
- 2. Types of developments.** Residential developments subject to this Section shall include housing created both by new construction, or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.
- 3. Segmentation.** Developments may not be segmented or phased to avoid compliance with these provisions.

**C. Provision of affordable units.**

- 1. Number of units to be provided:** All developments including a residential component which are subject to this Section shall be required to set aside a minimum of ten percent (10%) of the total number of dwelling units, and a minimum of ten percent (10%) of the total number of bedrooms, provided as affordable housing.

2. **Fractions:** If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if over one-half (1/2), shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit equal to or less than one-half, the fraction shall be rounded down to the next whole number.
3. **Sale or rental of units to very-low-, low-, and moderate income households:** Units set aside for sale or rental to very-low-, low-, and moderate-income households shall be restricted for occupancy by qualified households which meet the definition of “very-low,” “low” and “moderate” income set forth in this Ordinance.
4. **Distribution of affordability for rental units.** Affordable rental units shall be set aside as follows:
  - In developments which are required to include fewer than three (3) affordable units all affordable units shall be occupied by low-income households.
  - In developments which are required to include exactly three (3) affordable units,
    - One (1) affordable unit shall be occupied by a very-low-income household
    - One (1) affordable unit shall be occupied by a low-income household
    - One (1) affordable unit shall be occupied by a moderate-income household.
  - In developments which are required to include more than three (3) affordable units, the units shall be distributed as follows:
    - 25% shall be occupied by very-low-income households
    - 50% shall be occupied by low-income households
    - 25% shall be occupied by moderate-income households.
5. **Affordability of ownership units.** Affordable ownership units shall be occupied by low-income households.
6. **Relationship to the affordable housing inventory.** All Affordable units created to fulfill the requirements of this Ordinance must qualify as “Local Initiative Units” in compliance with the provisions of the Local Initiative Program (LIP) regulations, 760 CMR 45.00 and Local Initiative Program Guidelines, as promulgated and amended by the Commonwealth of Massachusetts Department of Housing and Community Development or other criteria as may be designated in the inclusionary zoning guidelines as approved by the City Council.
7. **Relationship to public funding programs.** Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

8. **Relationships to other organizations.** Subject to the approval of the City and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, to distribute, maintain or operate the units in accordance with the requirements and intent of this Article.

#### **D. Affordability requirements**

1. **Duration of affordability:** Affordable units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability of the units as defined by this Ordinance.
2. **Maximum rental price.** Payment of housing and related costs for Affordable Rental Units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for monthly rent and utilities (excluding cable and telephone service). Affordable Rents shall not exceed the current Fair Market Rents set by the U. S. Department of Housing and Urban Development.
3. **Maximum sales price.** Initial purchase prices and resale prices of affordable units shall be established so that households are not required to spend more than thirty percent (30%) of the income of a household earning eighty percent (80%) of area median income, with a ten percent (10%) window adjustment, for annual debt service on a mortgage (at 30 year fixed-interest rates at the time of initial sale), taxes, insurance, and condominium or homeowners fees with no more than a 5 percent down payment, including any required entrance deposit.
4. **Resale prices.** Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by HUD and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the City and the developer or owner, this percentage may be increased or decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.
5. **Marketing plan:** The affordable units must be rented or sold using marketing and selection guidelines approved by the City.
6. **Preference for City residents and persons employed within the City.** Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered to current residents of the City of Leominster who have resided in the City for a minimum of five (5) years, to persons employed within the City of Leominster for at least five (5) years, and persons who, although not currently residents of the City, have previously resided in the City of Leominster for a minimum of five (5) years.

#### **E. Development standards.**

- 1. Location of affordable units.** Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
- 2. Comparability.** Affordable units shall be to the extent possible externally indistinguishable from market rate units in the same development. Affordable units should be comparable to market rate units in terms of location, quality, character, and room size.
- 3. Unit size.** Except as otherwise authorized by the City, affordable units shall contain one or more bedrooms. The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.
- 4. Rights and privileges.** The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.

#### **F. Alternative Methods of Affordability**

- 1. Section \_\_\_\_ mandates that affordable units shall be provided onsite. However, in certain exceptional circumstances the City may, at the formal written request of the developer, consider an alternative method of compliance. In granting such authorization, the City must find that the developer has demonstrated that building the required affordable units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the City. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the developers, who must make full disclosure to the City of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below in Section \_\_\_\_.**
- 2. The following alternative methods of compliance, in order of preference by the City, may be considered by the City in rare, exceptional circumstances:**
  - Off-site Location:** With authorization by the City as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the City of Leominster and must add to the City's stock of affordable housing units. Off-site units shall be comparable in quality, size and type to the market-rate units being created, and of a number no fewer than the number of units that would have otherwise been provided on-site. Affordable off-site units allowed by this Ordinance may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to the same construction schedule as otherwise required if on-site as set forth in Section \_\_\_\_.

- **Cash Contribution:** With authorization by the City as described above, developers may make a cash payment to the City to be used only for the purposes of providing housing affordable to very-low and low-income households as defined by this Ordinance. Prior to the issuance of a final occupancy permit for any portion of the project the contribution shall be payable in full, or a written agreement approved by a majority of the City must be recorded. For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to a four-person low income household as defined by this Ordinance.

For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to a four-person low-income household as defined by this Ordinance, calculated over a term of 10 years.

3. **Administration of funds.** Funds donated to the City in accordance with the provisions outlined in M.G.L., Chapter 44, Section 53A, shall be restricted solely for the creation of affordable housing, located in the City of Leominster, and as defined by this Ordinance. The funds shall be kept in a separate account by the City Treasurer. The City Treasurer shall deposit the funds in a bank or invest the same in securities as are legal under the law of the Commonwealth of Massachusetts. Any interest earned shall be credited to and become part of the fund. Any moneys conveyed to the City in accordance with this Section, shall be expended only with approval of the majority of the City.

#### **G. Enforcement**

1. **Legal restrictions.** Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the City. All condominium documents and fees shall be subject to review and approval by the City and the City Attorney.
2. **Timing of commitments.** All contractual agreements with the City and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any approval required to commence construction.
3. **Timing of construction.** As a condition of the issuance of approval under this Section, the City may set a time schedule for the construction of both affordable and market-rate units. No Certificate of Occupancy shall be issued for any market-rate units in a development subject to the requirements of this Section until 25% of the affordable units required to be constructed have been issued a Certificate of Occupancy. No Certificate of Occupancy shall be issued to more than 50% of the market-rate units until 100% of the affordable required to be constructed have obtained a Certificate of Occupancy.

**NOTE: This Article (XVIII) is new.**

## ***ARTICLE XVIII: WIND ENERGY FACILITIES***

### **1.0 Purpose**

The purpose of this Article is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of wind facilities that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such facilities. The provisions set forth in this Article shall take precedence over all other sections of the Ordinance when considering applications related to the construction, operation, and/or repair of land-based wind energy facilities.

### **1.1 Applicability**

This Article applies to all utility-scale and on-site wind facilities proposed to be constructed after the effective date of this Article. This Article also pertains to physical modifications to existing wind facilities that materially alter the type, configuration, or size of such facilities or related equipment. This Article is not intended to cover roof-mounted, building-integrated, building-mounted, or architectural wind systems; this Article only covers stand-alone tower mounted systems.

### **2.0 General Requirements for all Wind Energy Facilities**

The following requirements are common to all wind energy facilities to be sited in designated locations, which include the RRA, C and I zoning districts.

### **2.1 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all such proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, environmental, electrical, communications and aviation requirements.

### **2.2 Building Permit and Building Inspection**

No wind energy system shall be erected, constructed, installed or modified as provided in this Article without first obtaining a building permit.

### **2.3 Fees**

The application for a building permit for a wind energy system must be accompanied by the fee required for a building permit.

## **2.4 Site Plan Review**

No wind energy facility shall be erected, constructed, installed or modified as provided in this Article without first undergoing site plan review by the Planning Board.

### **2.4.1 General**

All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.

### **2.4.2 Required Documents**

Pursuant to the site plan review process, the project proponent shall provide the following documents:

**(a) A site plan showing:**

- i. Property lines and physical dimensions of the site parcel and adjacent parcels within 300 feet of the site parcel;
- ii. Outline of all existing buildings, including purpose (e.g. residence, garage, etc.) on site parcel and all adjacent parcels within 500 feet of the site parcel, including distances from the wind facility to each building shown;
- iii. Location of the proposed tower, foundations, guy anchors, access roads, and associated equipment;
- iv. Location of all existing and proposed roads, both public and private, and including temporary roads or driveways, on the site parcel and adjacent parcels within 500 feet of the site parcel;
- v. Any existing overhead utility lines;
- vi. Existing areas of tree cover, including average height of trees, on the site parcel and any adjacent parcels within a distance, measured from the wind turbine foundation, of 1.2 times the height of the wind turbine;
- vii. Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting (other than FAA lights), screening vegetation or structures;
- viii. Tower foundation blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
- ix. Tower blueprints or drawings signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts;
- x. One or three line electrical diagram detailing wind turbine, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- xi. Documentation of the wind energy facility's manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed), and foundation type/dimensions;
- xii. Name, address, phone number and signature of the applicant, as well as all co- applicants or property owners, if any;
- xiii. The name, contact information and signature of any agents representing the applicant; and
- xiv. A maintenance plan for the wind energy facility;

**(b) Documentation of actual or prospective access and control of the project site (see also [Section 2.5](#));**

**(c) An operation and maintenance plan ([see also Section 2.6](#));**

- (d) A location map consisting of a copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, showing the proposed facility site, including turbine sites, and the area within at least two miles from the facility. Zoning district designation for the subject parcel should be included; submission of a copy of a zoning map with the parcel identified is suitable for this purpose;
- (e) Proof of liability insurance;
- (f) Certification of height approval from the FAA;
- (g) A statement that evidences the wind energy facility's conformance with Section 2.10.6, listing existing ambient sound levels at the site and maximum projected sound levels from the wind energy facility; and
- (h) Description of financial surety that satisfies **Section 2.12.3.**

The Planning Board may waive documentary requirements as it deems appropriate.

#### **2.5 Site Control**

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed wind energy facility. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

#### **2.6 Operation & Maintenance Plan**

The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the wind facility.

#### **2.7 Utility Notification**

No wind energy facility shall be installed until evidence has been given that the utility company that operates the electrical grid where the facility is to be located has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

#### **2.8 Temporary Meteorological Towers (Met Towers)**

A building permit shall be required for stand-alone temporary met towers. No site plan review shall be required for met towers.

#### **2.9 Design Standards**

**2.9.1 Appearance, Color and Finish.** Color and appearance shall comply with Federal Aviation Administration (FAA) safety requirements.

**2.9.2 Lighting.** Wind turbines shall be lighted only if required by the FAA. Lighting of other parts of the wind energy facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Except as required by the FAA, lighting of the wind energy facility shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

**2.9.3 Signage.** Signs on wind energy facilities shall comply with **Article XII – Sign Regulations.** The following signs shall be required:

- (a) Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.



- (b) Educational signs providing information about the facility and the benefits of renewable energy.**

**Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.**

**2.9.4 Utility Connections.** Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the wind energy facility underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

**2.9.5 Appurtenant Structures.** All appurtenant structures to wind energy facilities shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and contained within the turbine tower whenever technically and economically feasible. Whenever reasonable, structures should be shaded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

#### **2.9.6 Height**

**The height of wind energy facilities shall not exceed 400 feet in height.**

#### **2.10 Safety and Environmental Standards**

**2.10.1 Emergency Services.** The applicant shall provide a copy of the project summary, electrical schematic, and site plan to the police and fire departments. Upon request the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of disconnecting the wind energy facility shall be clearly marked. The applicant or facility owner shall identify a responsible person for public inquiries or complaints throughout the life of the project.

**2.10.2 Unauthorized Access.** Wind energy facilities shall be designed to prevent unauthorized access. For instance, the towers of wind turbines shall be designed and installed so that step bolts or other climbing features are not readily accessible to the public and so that step bolts or other climbing features are not installed below the level of 8 feet above the ground. Electrical equipment shall be locked where possible.

**2.10.3 Setbacks.** A wind turbine may not be sited within:

- (a) a distance equal to the height of the wind turbine from buildings, critical infrastructure, or private or public ways that are not part of the wind energy facility;**
- (b) three times (3x) the height of the turbine from the nearest existing residential structure; or**
- (c) one point five times (1.5x) the height of the turbine from the nearest property line.**

**2.10.4 Setback Waiver** The Planning Board may reduce the minimum setback distance as appropriate based on site-specific considerations, or written consent of the affected abutter(s), if the project satisfies all other criteria for the granting of a building permit under the provisions of this section.

**2.10.5 Shadow/Flicker.** Wind energy facilities shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses.

**2.10.6 Sound.** The operation of the wind energy facility shall conform with the provisions of the Department of Environmental Protection's, Division of Air Quality Noise Regulations (310 CMR 7.10) as they may be amended.

**2.10.7 Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the wind energy facility or otherwise prescribed by applicable laws, regulations, and ordinances.

## **2.11 Monitoring and Maintenance**

**2.11.1 Wind Energy Facility Conditions.** The applicant shall maintain the wind energy facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief and Emergency Medical Services. The project owner shall be responsible for the cost of maintaining the wind energy facility and any access road(s), unless accepted as a public way.

**2.11.2 Modifications.** All material modifications to a wind energy facility made after issuance of the required building permit shall require approval by the Planning Board.

## **2.12 Abandonment or Decommissioning**

**2.12.1 Removal Requirements.** Any wind energy facility which has reached the end of its useful life or has been abandoned shall be removed. The owner/operator shall physically remove the facility no more than 150 days after the date of discontinued operations. The applicant shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- (a) Physical removal of all wind turbines, structures, equipment, security barriers and transmission lines from the site.
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

**2.12.2 Abandonment.** Absent notice of a proposed date of decommissioning or written note of extenuating circumstances, the wind energy facility shall be considered abandoned when the facility fails to operate for more than one year without the written consent of the Planning Board. If the applicant fails to remove the facility in accordance with the requirements of this Section within 150 days of abandonment or the proposed date of decommissioning, the City may enter the property and physically remove the facility

**2.12.3 Financial Surety.** Applicants for utility-scale wind energy facilities shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the City must remove the facility and remediate the landscape, in an amount and form determined to be reasonable by the planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

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## ***APPENDIX A: ORDINANCE CHANGES/ZONING MAP UPDATES***

### ***Ordinance Changes***

<b><i>Section/Map</i></b>	<b><i>Amendment</i></b>	<b><i>Comments</i></b>	<b><i>Approval by Council On:</i></b>
Map	Section 22-“Zoning”	Revised zoning map	8-12-02
22-24	Article II, 22-24.2.5	Mixed Use	1-27-03
22-24	Article II, 24.2.5.1	Mixed Use	1-27-03
22-24	Article II, 24.2.5.1.1	Mixed Use	1-27-03
22-24	Article II, 24.2.5.2	Mixed Use	1-27-03
22-26	Article II, Table of Uses	Mixed Use	1-27-03
22-4	Article I, Definitions	Mixed Use	1-27-03
22-23	Article II, 22-23.4	Site Plan/Commercial District	1-27-03
Map	86-88 Lancaster St.	See description this Appendix	11-24-03
Map	273 Lancaster St.	See description this Appendix	12-8-03

<b><i>Section/Map</i></b>	<b><i>Amendment</i></b>	<b><i>Comments</i></b>	<b><i>Approval by Council On:</i></b>
22-41	Article VI, 41.5.4	Watershed District	9-27-04
22-27	Article III, 27.4	Dimensional Regulations	9-27-04
22-27	Article III, 27.8 and footnote	Water Supply Protection District	9-27-04
22-26	Article II, Table of Uses	Martial Arts School/Studio	11-22-04
Map	Adams Street, Cotton Street, Cottage Street, Pleasant Street	See description this Appendix	1-10-05
22-16	Section 16.10 Use Regulations- Generally Permitted Uses	Use of existing building by Special Permit from City Council	7-25-05
22-26	Table of Uses	Storage and Distribution of Home Heating Fuels Under Industrial Uses	9-12-05
22-16	Article II, Use Regulation	Accessory Apartments	9-12-05
Map	Orchard Hill Park Drive	See description this Appendix	9-26-05
Map	Jytek Drive/Central St.	See description this Appendix	11-14-05
Map	62-66 Spruce Street	See description this Appendix	3-13-06
22-16	Article II, Use Regulations	Use of Undeveloped (Vacant) Lots	3-27-06
22-12	Article I, General Regulations	Non Conforming Uses, Structures & Lots	8-31-06
22-114	Article XV Accessory Apartments	Existing Accessory Dwelling Units	9-25-06
22-26	Table of Uses Industrial Uses	Insert Mixed Use Development note	10-13-06

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## ***Zoning Map Updates***

Be it ordained by the City Council of the City of Leominster, as follows:

Chapter 22 of the Revised Ordinances entitles “Zoning” is hereby amended by adopting the revised computer generated Zoning Map proposed by the Planning Board, which is easier to read and clarifies the zoning district boundaries. The Zoning Map is further amended by correcting the zoning designation of Lots 9A, 9B and 11 on the Assessors Map 355 to Business B, as the designation was inadvertently changed on the Zoning Map adopted on July 10, 2001. *(Adopted August 12, 2002)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by altering the Zoning Map, such that the parcel identified as Lot #1 on Assessors Map 18, further identified as 86-88 Lancaster Street, said lot containing 11,113 square feet of land, more or less, shall be located entirely within the Commercial zoning district.  
*(Adopted November 24, 2003)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by altering the Zoning Map, such that the parcel identified as Lot #10 on Assessors Map 484, further identified as 273 Lancaster Street, said lot containing 17,696 square feet of land, more or less, shall be located entirely within the Commercial zoning district.  
*(Adopted December 8, 2003)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that parcels of land located at the southwest corner of the intersection of Adams and Cotton Street are changed from Industrial (I) to Residence C (RC) as shown on Assessors Map 4, as lots 1 (4.52 acres) and 2 (0.2 acres); and so that a parcel of land continuous to those parcels and westerly of Adams Street, southerly of Cotton Street, easterly of Cottage Street and northerly of Pleasant Street is changed from Business B (BB) to Residence C (RC) as shown on Assessors Map 3, as lot 14C (0.55 acres), total area to be rezoned is 5.27 acres.  
*(Adopted January 10, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that a portion of a parcel of land located off Orchard Hill Park Drive and Pioneer Drive, identified as Parcel #4 on a map entitled “Plan to Accompany a Petition for Zoning Change,” by Whitman & Bingham Associates, dated June 8, 2005, as on file with the City Clerk, is changed from Rural Residence (RR) to Industrial (I), total area to be rezoned being approximately 3.86 acres.  
*(Adopted September 26, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that property at Jytek Drive and Central Street, currently zoned as Industrial and identified as Assessors Map 499, Lots 12, 21, 22 and 36, is located entirely within the Commercial zone.  
*(Adopted November 14, 2005)*

Chapter 22 of the Revised Ordinances entitled “Zoning” is hereby amended by changing the Leominster Zoning Map, so that eight (8) parcels at 62-66 Spruce Street, currently zoned as Industrial and identified as Assessors Map 40, Lots 1, 2, 3, 5, 6, 6A and 17, are located entirely within the Residence C zone.

*(Adopted March 13, 2006)*

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